

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: November 26, 2013

TO: Board of County Commissioners

VIA: Katherine Miller, County Manager *KM*

FROM: *CB* Chris M. Barela, Constituent Service Liaison District 3

RE: Santa Fe County Resolution directing staff to submit an application for grant funds to the Federal Highway Administration (FHWA) Central Federal Lands Highway Division for design and construction of a segment of el Camino Real de Tierra Adentro National Historic Trail (Buckman Road Segment)

Board of County Commission meeting December 10, 2013

BACKGROUND AND SUMMARY:

At the regular meeting of the Board of County Commissioners held on August 27, 2013, Mr. Steve Burns with the National Trails International Region Office of the National Park Service presented the potential for the National Park Service and Santa Fe County to lead a financially-supported planning effort for the development of multiuse trail retracing the "Buckman Road Segment" of the National Historic Trail, known as El Camino Real de Tierra Adentro. As of October 2013 financial support was secured in the form of a partnership with Montana State University's Transit In Parks Technical Assistance Center (TRIPTAC). As a result, a conceptual master plan for a portion of the nationally-designated trail route through Santa Fe County will be developed by June of 2014. Concurrently, the National Park Service and planning consultants are working with Santa Fe County staff, the BLM and the Forest Service to prepare an application for Federal Lands Access Program (FLAP) for the design and construction of this trail.

Approval of the proposed resolution by the Board of County Commissioners is necessary, as Santa Fe County shall be the sponsoring agency and fiscal agent if awarded said grant. Santa Fe County shall be the owner of the trail and responsible for the long-term operations and maintenance.

REQUEST ACTION:

Commissioner Anaya and Commissioner Chavez respectfully request that the Board of Santa Fe County Commissioners approve the attached resolution directing staff to submit a grant application for FLAP funds to cover the final design and construction of El Camino Real de Tierra Adentro National Historic Trail (Buckman Road Segment) located in Santa Fe County.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

Resolution No. 2013-_____

**A RESOLUTION DIRECTING STAFF TO SUBMIT AN APPLICATION FOR
GRANT FUNDS TO THE FEDERAL HIGHWAY ADMINISTRATION (FHWA
CENTRAL FEDERAL LANDS HIGHWAY DIVISION FOR DESIGN AND
CONSTRUCTION OF A SEGMENT OF EL CAMINO REAL DE TIERRA
ADENTRO NATIONAL HISTORIC TRAIL (BUCKMAN ROAD SEGMENT)**

WHEREAS, the United States Department of Transportation Federal Highway Administration administers the Federal Lands Access Program (FLAP) under 23 U.S. C. 204, established under Section 1119 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141;

WHEREAS, the State of New Mexico has been allocated FLAP program funds in the amount of \$14.4 million dollars for states, counties, tribes and local governments for the current funding cycle, which program provides funds for transportation projects that provide access to, are adjacent to, or are within Federal lands with emphasis placed on those that access high use recreation sites and are Federal economic generators, but which require that such a facility supported by federal grants be owned or maintained by the state, tribe or local government;

WHEREAS, El Camino Real de Tierra Adentro (Royal Road of the Interior) National Historic Trail was added to the National Trails System by the United States Congress in October of 2000 and is recognized throughout the United States of America and Los Estado Unidos de Mexico as a timeless route of trade and cultural exchange;

WHEREAS, the "National Trails System Act" (P.L. 90-543, as amended through P.L. 111-11, March 30, 2009) calls for the development of a national system of trails near urban areas, within scenic areas, and along historic travel routes of the Nation;

WHEREAS, an approximately 20-mile segment of the el Camino Real de Tierra Adentro National Historic Trail identified as the "Buckman Road Segment," described on Exhibit A hereto, falls within Santa Fe County and generally connects to the El Camino Real Park along the Santa Fe River Trail near NM Highway 599 to point along the historic route of El Camino Real near La Cieneguilla, and has been identified as an eligible project under the FLAP funding guidelines and illustrated generally on Exhibit A;

WHEREAS, the 2010 Sustainable Growth Management Plan, adopted by the Board of County Commissioners by Resolutions 2010-210 and 2010-225, states under Section 6.2.2 that the current Open Space and Trails Program relies on partnerships and collaboration with over 75 local, state, and national agencies, associations and non-profits to accomplish its work that is

important to cultivate these relationships and to seek out grants and other creative avenues for funding in Section 6.2.3.3 that an expanded and well maintained trail network will attract tourists who are looking for an outdoor recreation experience and that trails also provide a green alternative to non-motorized transportation and are an amenity that improves the quality of life in the community;

WHEREAS, the National Trails Intermountain Region Office (U.S. National Park Service) has taken a leadership role in advancing a collaborative approach with Santa Fe County, the Bureau of Land Management and the National Forest Service to develop a trail master plan for the Buckman Road segment; and

WHEREAS, the Board desires to direct staff to apply to the Federal Highway Administration (FHWA) Central Federal Lands Highway Division for FLAP funds for design and construction of El Camino Real de Tierra Adentro National Historic Trail (Buckman Road Segment).

NOW, THEREFORE, BE IT RESOLVED: that the Santa Fe County Board of Commissioners direct staff to apply for a grant from the Federal Highway Administration, Central Federal Lands Highway Division for design and construction of el Camino Real de Tierra Adentro National Historic Trail (Buckman Road Segment), and authorizes the County Manager to execute any and all documents necessary for the grant application.

APPROVED, ADOPTED, AND PASSED this 10th day of December, 2013.


**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Kathleen S. Holian, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Stephen C. Ross, County Attorney



Santa Fe County: Buckman Road segment

EXHIBIT: A

← NM 502

← Proposed
El Camino
Real
National
Trail

NM
599 &
Airport
Road
↓

La Cieneguilla



0 1 2 4 6 8 Miles

Legend

SANTA FE COUNTY
FISCAL IMPACT REPORT (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed ordinance or resolution as to its direct impact upon the County's operating budget and is intended for use by staff of the Human Resources and Finance Divisions, the County Manager and the governing body of Santa Fe County. Ordinances/resolutions with no fiscal impact still require a completed FIR. Ordinances/resolutions with a fiscal impact must be reviewed by the Finance Division Director or the Budget Administrator. Ordinances/resolutions with proposed staffing increases must be reviewed and approved by the Human Resources staff and approved by the County Manager before presentation to the Board of County Commissioners (BCC).

Section A. **General Information**

(Check) Ordinance: _____ Resolution: 2013-XX

A single FIR may be used for related ordinances and/or resolutions.

Short Title(s): Santa Fe County Resolution Directing Staff to Submit an Application to the FHWA Central Federal Lands Highway Division for Design and Construction of a Segment of El Camino Real de Tierra Adentro National Historic Trail (Buckman Road Segment).

Reviewing Division(s): Planning Division

Person Completing FIR: Lisa Roach

Date: November 26, 2013 Phone: 992-9857

Reviewed by Department Director:  Date: 12/3/13
(Signature)

Reviewed by Finance Director:  Date: 12/3/2013
(Signature)

Section B. **Summary**

Briefly explain the purpose and major provisions of the ordinance/resolution.

The purpose of Resolution 2013-XX is to direct Santa Fe County staff to submit an application to the Federal Highway Administration (FHWA) Central Federal Lands Highway Division for Federal Lands Access Program (FLAP) funds for design and construction of El Camino Real de Tierra Adentro National Historic Trail (Buckman Road Segment).

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Section C. **Fiscal Impact**

NOTE: Financial information on this FIR does not directly translate into a Santa Fe County budget increase.

- a. The item must be presented to the Finance Division for analysis and recommendation as a potential request to increase the existing budget for the county.
- b. Detailed budget information must be included, such as funding source, amounts and justification.
- c. Detailed salary and benefit for new full-time equivalents (FTE's) must be included. The request must be approved by the staff of the Human Resources Division for each new FTE request.

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – the current fiscal year and the following three fiscal years, where applicable
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" if recurring annual costs
Indicate: "NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if four years does not adequately project revenue and costs patterns
- e. Costs may be netted or show as an offset if some cost savings are projected (please explain further in Section 3 Narrative)
- f. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.

Column#:	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Exp. Classification	FY 2014	"A" or "N"	"R" or "NR"	FY 2015	"A" or "N"	"R" or "NR"	FY 2016	"A" or "N"	"R" or "NR"	FY 2017	"A" or "N"	"R" or "NR"	Fund Affected	
Salary and Benefits	\$10,140	A	NR	\$20,280	A	NR							General	
Maintenance	\$			\$			\$52,500	N	R	\$52,500	N	R	General	
Other Operating	\$			\$										
Contractual Services	\$			\$1,000,000	N	NR							Grant	
Capital Requirements	\$			\$500,000	N	NR							Grant / Capital	
AL	\$10,140			\$1,520,280			\$52,500			\$52,500				

*Any indication that additional staffing would be required must be reviewed and approved in advance by the County Manager by attached memo before release of FIR to the Board of County Commissioners (BCC).

** For salary and benefit information contact the Finance Division.

2. Revenue Sources:

- To indicate new revenues and/or
- Required for costs for which new expenditure budget is proposed above in item 1.
- Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.

Column#: 1	2	3	4	5	6
Type of Revenue	FY 2015	"R" or "NR"	FY ____	"R" or "NR"	Fund Affected
FLAP grant	\$1,500,000	NR	\$		
	\$		\$		
	\$		\$		
	\$		\$		
	\$		\$		
TOTAL	\$1,500,000	NR	\$		

3. Expenditure/Revenue Narrative:

Explain expenditures, grant match requirements, justify salary and benefit costs for new FTE request, detail capital and operating uses, etc. Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. (Attach supplemental page, if necessary). Also, provide expanded information for fiscal year three and four impact for both revenue and expenditures.

Expenditures. Estimated project expenditures to be covered by FLAP grant funds include design and environmental compliance (~\$150,000), acquisition of trail easements through portions of the trail route which cross private lands (~\$500,000), construction (~\$500,000), and trailheads and Signage (~\$350,000). Cost estimates and assumptions for each of these expense categories may be found in the attached "Schedule of Estimated Project Costs." As staff proceeds with preparation of a grant application, estimated costs may be adjusted.

Grant Revenue. The revenue source to cover these costs is identified as FLAP grant funding, in the amount of approximately \$1.5 million. If a FLAP grant is awarded, funds will be available as soon as October of 2014, with the bulk of expenditures to take place in FY 2015. If funded, the exact period of grant expenditure will be detailed in a grant agreement with the Central Federal Land Highway Division.

Grant Match. County staff time for project management and planning qualifies as in-kind/soft match for this grant, in the amount of approximately \$10,140 in FY 2014 and \$20,280 in FY 2015 (estimated based on 10 hours per week for 6 months in FY14 and all of FY15, hourly salary + 40% benefits + 15% overhead). Staff time of the federal partners in the grant (NPS, BLM, USFS) is also considered in-kind/soft match, in the amount of approximately \$62,400 (estimated at \$80/hour). Cash match is provided in the form of \$34,000 in technical assistance for conceptual trail planning, being contracted through the Transit In Parks Technical Assistance Center (TRIPTAC) out of Montana State University, and approximately \$20,000 of Challenge Cost Share through the National Park Service. Additional cash match will be required from Santa Fe County to meet the remainder of the 15% match requirement for the FLAP grant, and is estimated to be approximately 7.5% of estimated capital project costs (~\$112,500). Staff is coordinating with the Business Unit and ensuring that the project is added to the Capital Improvements Plan (CIP) for prioritization of funding the required capital for this project.

Operations and Maintenance. Beginning in FY 2016, ongoing operations and maintenance for approximately 21 miles of trail will be required for this project. Annual operations and maintenance costs for this project are estimated to be approximately \$2,500/mile for 21 miles of trail, or \$52,500. This represents an approximately 12% increase over the current annual Operations and Maintenance Budget and is roughly the equivalent of one additional FTE (at ~\$15/hour + benefits and overhead).

Section D. General Narrative

- 1. Conflicts:** Does this proposed ordinance/resolution duplicate/conflict with/companion to/relate to any County code, approved ordinance or resolution, other adopted policies and legislation? Include details of county adopted ordinances/resolutions and dates. Summarize the relationships, conflicts or overlaps.

The proposed resolution relates to a) Section 6.2.2 of the Sustainable Growth Management Plan (SGMP), which states, "The current Open Space and Trails Program relies on partnerships and collaboration with over 75 local, state, and national agencies, associations and non-profits to accomplish its work. It is important to cultivate these relationships and to seek out grants and other creative avenues for funding;" and b) Section 6.2.3.3 of the SGMP, which states, "An expanded and well maintained trail network will attract tourists who are looking for an outdoor recreation experience. Trails also provide a green alternative to non-motorized transportation. They are an amenity that improves the quality of life in the community." The proposed resolution also relates to the "National Trails System Act" (P.L. 90-543, as amended through P.L. 111-11, March 30, 2009), which calls for the development of a national system of trails near urban areas, within scenic areas, and along historic travel routes of the Nation.

- 2. Consequences of Not Enacting This Ordinance/Resolution:**

Are there consequences of not enacting this ordinance/resolution? If so, describe.

If the proposed resolution is not adopted, Santa Fe County staff will neither prepare nor submit the FLAP application, consequently missing the opportunity to receive federal FLAP funds for this project.

- 3. Technical Issues:**

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No.

4. Community Impact:

Briefly describe the major positive or negative effects the ordinance/resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The proposed resolution would provide for an application for federal grant funds for the design and construction of a regional trail connection along a nationally-significant trail route through Santa Fe County. If funded and constructed, the direct community impact of the project will be realized in the form of Santa Fe County citizens having a substantive recreational trail for hiking, mountain biking, trail running, nature walks and equestrian activities. The construction of such a trail of national significance would enhance Santa Fe County's network of tourist-oriented recreational activities, which attract visitors from around the world to enjoy the region's many cultural amenities. Lastly, the trail would serve as a reflection of and an opportunity to educate the public regarding an important narrative in the rich history of Santa Fe County's diverse communities and would serve to memorialize the passage so that future generations of New Mexicans may enjoy a route shared by generations of ancestors.

Schedule of Estimated Project Costs: El Camino Real Buckman Road Retracement Trail

Design + Environmental compliance **\$150,000**

(Assumptions : 10% Design, 15% Cultural, Biological, Survey, GRT @ 7%)

Acquisition **\$500,000**

(Assumptions: 30 wide easement (3.6 acres /mile) @ 90% of land value; \$10k/acre for 4 miles near La Cieneguilla; \$40k/acre for 3 miles near El Rancho)

Construction **\$500,000**

Assumptions: 2 to 5 ft- wide natural surface trail = \$20k/mile for 21 miles, 15% contingency, GRT @ 7%)

Trailheads and Signage **\$350,000**

(Assumptions: Trailheads @ \$100,000 / each for 3 trailheads, Interpretive Signage @ \$5,000 / ea for 3 trailheads, Directional Signage @ \$3,000 / ea for 3 trailheads, Trail Markers along the route)

TOTAL FLAP grant proposal (estimated) = \$1,500,000

15% Required Match = \$225,000

Match Breakdown (15% of estimated project costs)

Cash Match (Federal)

	FY14	FY 15	TOTAL
Cash Match (Federal)	\$34,000	\$20,000	\$54,000

Includes technical assistance from TRIPTAC for the preparation of a conceptual master plan and Challenge Cost Share from NPS.

In-kind (Federal partners - NPS, BLM, USFS)

In-kind (Federal partners - NPS, BLM, USFS)	\$20,800	\$41,600	\$62,400
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Assistance with Planning and Design (Federal partners - NPS, BLM, USFS; estimated at \$80/hour to include salary and benefits, 10 hours per week)

Cash Match (Santa Fe County)

Cash Match (Santa Fe County)	--	\$112,500	\$112,500
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(7.5% of projected project costs)

In-kind (Santa Fe County)

In-kind (Santa Fe County)	\$10,140	\$20,280	\$30,420
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Project Management and Planning (155% hourly salary for project manager and planner, estimated at \$39/hour to include salary and benefits, 10 hours per week)

TOTAL ESTIMATED MATCH = \$259,320

Operations & Maintenance

\$2,500 per mile annual maintenance (for 2 to 5ft hiking trail)

\$52,500 1 FTE needed
\$15/hour + benefits



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: December 2, 2013

TO: Board of County Commissioners

FROM: Julia Valdez, Constituent Services Liaison, Manager's Office

VIA: Katherine Miller, County Manager *YLM*

ITEM AND ISSUE: BCC Meeting December 10, 2013

Resolution No. 2013-___ a Resolution Supporting Legislation Prohibiting the Sale of E-cigarettes to Minors (Commissioners Stefanics and Anaya)

BACKGROUND

Electronic nicotine delivery systems or, e-cigarettes, are battery-powered heating elements that are designed to deliver nicotine in the form of a vapor. E-cigarette cartridges are available in a variety of flavors such as bubblegum, chocolate and mint that appeal to youth. They are seen as gateway products to tobacco abuse and nicotine addiction.

The Centers for Disease Control and Prevention released data that shows the percentage of middle and high school students that tried e-cigarettes more than doubled between 2011 and 2012. 76% of young people who currently use e-cigarettes also smoked regular cigarettes, leading experts to conclude that e-cigarettes may lead to smoking real cigarettes.

Minors under 18 years of age are already prohibited from buying cigarettes and other tobacco products.

This resolution requests and urges that the New Mexico State Legislature enact legislation that prohibits sales of e-cigarettes to minors.

SANTA FE COUNTY

RESOLUTION NO. 2013-____

**A RESOLUTION SUPPORTING LEGISLATION PROHIBITING THE SALE
OF E-CIGARETTES TO MINORS**

WHEREAS, unregulated high-tech smoking devices, commonly referred to as electronic cigarettes (“e-cigarettes”) closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system;

WHEREAS, e-cigarette is a product containing or delivering the addictive substance nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product and an electronic smoking device includes any component part of such product whether or not sold separately, but does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold for the approved purpose;

WHEREAS, the Center for Disease Control and Prevention has described e-cigarettes as battery-powered devices that provide doses of nicotine and other additives to the user in an aerosol;

WHEREAS, in July of 2009 the U.S. Food and Drug Administration announced that a laboratory analysis of electronic cigarette samples disclosed that those sampled contained various carcinogens and toxic chemicals such as diethylene glycol, an ingredient used in antifreeze;

WHEREAS, e-cigarettes are marketed and sold to young people and are readily available online and in shopping malls;

WHEREAS, e-cigarettes are marketed without any health warnings comparable to FDA-approved nicotine replacement products or conventional cigarettes;

WHEREAS, e-cigarettes are also available in different flavors appealing to young people, such as fruit, chocolate and mint;

WHEREAS, a September 6, 2013 U.S. Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report entitled “Notes from the Field: Electronic Cigarette Use Among Middle and High School Students – United States, 2011-2012, states that data from a 2011 and 2012 National Youth Tobacco Survey indicates that the percentage of middle and high school students in the United States who have tried e-cigarettes more than doubled between 2011 and 2012 and that seventy-six percent of young people who currently use e-cigarettes also smoked regular cigarettes, leading some experts to conclude that e-cigarettes may lead to smoking real cigarettes;

WHEREAS, public health experts have expressed concern that e-cigarettes could increase nicotine addiction and tobacco use in young people;

WHEREAS, smoking remains a leading cause of preventable death and disease in the United States, and nearly ninety percent of adult smokers began smoking by age 18;

WHEREAS, minors under 18 years of age are already prohibited from buying cigarettes and other tobacco products, the use of which involve well-established risks;

WHEREAS, twenty-seven states already have enacted laws prohibiting the sale of e-cigarettes to minors.

NOW THEREFORE BE IT RESOLVED THAT the Board of County Commissioners of Santa Fe County supports and urges the New Mexico State Legislature to enact legislation that prohibits the sale of e-cigarettes to minors.

ADOPTED this 10th day of December, 2013.

BOARD OF COUNTY COMMISSIONERS

Kathleen Holian, Chairperson

ATTEST:

APPROVED AS TO FORM:

Geraldine Salazar, County Clerk



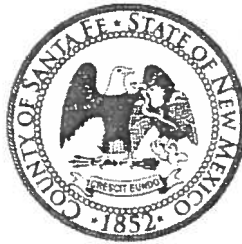
Stephen C. Ross, County Attorney



Daniel "Danny" Mayfield
Commissioner, District 1

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Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: November 26, 2013

TO: Board of County Commissioners

FROM: Bill Taylor, Procurement Manager *BT 11/26/13*

VIA: Katherine Miller, County Manager *KM 11/27*
Teresa C. Martinez, Finance Director *JCM*

ITEM AND ISSUE: BCC Meeting December 10, 2013

**REQUEST APPROVAL TO AWARD AGREEMENT NO. 2014-0011-FI/IC TO RBC CAPITAL MARKETS FOR FINANCIAL ADVISOR SERVICES.-
BILL TAYLOR/PROCUREMENT**

ISSUE

The Purchasing Division requests approval of Agreement No. 2014-0011-FI/IC with RBC Capital Markets to provide financial advisor services to Santa Fe County officials and Bond Counsel.

BACKGROUND

Santa Fe County's Finance Department requires the services of a professional financial advisor licensed as a Certified Public Accountant (CPA) to work with County officials and Bond Counsel and provide information appropriate to bond rating agencies, conduct a survey of the financial resources of the County to determine the extent of its capacity to authorize and issue debt service.

The Purchasing Division issued Request for Proposals (RFP) No. 2014-0011-FI/IC "Financial Advisor Services" September 22, 2013. This solicitation was advertised in the Santa Fe New Mexican, the Albuquerque Journal and posted on the County's Website. Three firms attended the pre-proposal conference and two proposals were received in response to the RFP.

All proposals were reviewed by the Purchasing staff to ensure responsiveness. An evaluation committee consisting of four County members reviewed, scored and ranked the proposals as follows:

1. RBC Capital Markets, Albuquerque, NM
2. George K. Baum & Company, Albuquerque, NM

Although all of the proponents are qualified firms the evaluation committee made its determination based on the best prepared and most responsive proposal. After careful deliberation by the evaluation committee, these factors resulted in RBC Capital Markets being selected for a contract award.

RECOMENDATION

The Purchasing Division requests approval of Agreement No. 2014-0011-FI/IC with RBC Capital Markets for financial advisor services.

**SANTA FE COUNTY
PROFESSIONAL SERVICES AGREEMENT
WITH RBC CAPITAL MARKETS, LLC
FOR FINANCIAL ADVISOR SERVICES**

THIS AGREEMENT is made and entered into as of this _____ day of _____, 2013, by and between Santa Fe County, hereinafter referred to as "County", a political subdivision of the State of New Mexico and RBC Capital Markets, a Foreign Limited Liability Company, a with a principal address located at One Liberty Plaza, 165 Broadway, New York, NY 10006, hereinafter referred to as "Contractor".

RECITALS

WHEREAS, Santa Fe County's Finance Department, requires the services of a professional financial advisor licensed as a Certified Public Accountant (CPA) to work with County officials and Bond Counsel and provide information appropriate to bond rating agencies, conduct a survey of the financial resources of the County to determine the extent of its capacity to authorize and issue debt service;

WHEREAS, pursuant to NMSA 1978, Section 13-1-12 and 13-1-153 of the Procurement Code competitive sealed proposals were solicited for financial advisor services via a formal request for proposals (RFP), RFP No. 2014-0011-FI/IC;

WHEREAS, based upon the evaluation criteria established within the request for proposals for the purpose of determining the most qualified Offeror, the County has determined the Contractor as the most responsive and highest rated Offeror;

WHEREAS, the County requires the services of the Contractor, and the Contractor is willing to provide these services and both parties wish to enter into this Agreement.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

AGREEMENT

1. SCOPE OF WORK

The Contractor shall provide the following services:

A. Objectives:

- 1) To provide timely information to bond rating agencies necessary to obtain bond ratings.
- 2) To maintain or improve the credit rating of the County.
- 3) To obtain the most advantageous timing for the sale of bonds.
- 4) To broaden the interest in bonds to be sold and ensure the proper structuring of bond sales.

- 5) To release official statements relating to any bonds to be offered for sale to prospective buyers of bonds.
- 6) To assist the County in complying with reporting requirements under the Securities and Exchange Commission Rule 17 CFR 240.15c2-12 as amended.

B. Deliverables:

- 1) Conduct an assessment of Financial Resources and Recommended Plan of Financing.
- 2) The Contractor shall conduct a survey of the financial resources of the County to determine the extent of its capacity to authorize issue and service debt. The survey will include an analysis of existing debt structure as compared with the existing and projected sources of revenues that may be pledged to secure payment of debt service and, where appropriate, will include a study of the trend of the assessed valuation, taxing power (including both property taxes and sales/excise taxes) and present and future taxing requirements of the County. The survey will include:
 - a) Analysis of specific outstanding bond transactions identified by the County (e.g., adult detention center debt, special taxing district debt) and recommendations for addressing disadvantaged features of such outstanding transactions.
- 3) Based on the information of the survey, the Contractor shall submit to the County recommendations on current and future debt instruments under consideration including such elements as current bond market conditions, forthcoming bond issues and other general information and economic data that might normally be expected to influence interest rates or bidding conditions so that the date of sale of the debt instruments may be set at a time which will be favorable.
- 4) The Contractor shall recommend the method or methods of sale of debt instruments that are most advantageous of the County and shall proceed with such as directed by the County.
- 5) The Contractor shall cooperate with legal counsel and bond counsel for the County in the preparation and adoption of all necessary ordinances, resolutions, notices, certificates and the publishing of all legal notices and the occurrence of any other events required for the successful sale, issuance, and delivery of bonds.
- 6) Cooperation with External Agencies - Coordinate with state authorized agencies in obtaining any necessary agency approval(s) for the issuance of the bonds.
- 7) Ratings and Credit Enhancement. - Work with County officials and bond counsel to provide information to bond rating agencies necessary or requested to obtain bond ratings. Assist in preparation of materials as may be required. The Contractor may be requested to accompany appropriate officials to meetings with rating agencies and credit enhancement companies. Take appropriate actions to assist the County in maintaining or improving the credit rating of the County.
- 8) Preparation of Sale of Bonds.
 - a) In a *competitive sale* situation, the Contractor will work closely with the County in preparation for bidding revenue bonds, advising on the most

- advantageous timing of bidding and evaluating bids, and the award of the winning bid to the underwriter(s).
- b) In a *negotiated sale* situation, the Contractor shall assist the County in planning for the optimal timing of the purchase transaction and subsequent marketing of the bonds. The Contractor shall assist the County as required in identification of potential underwriters from those identified as proposers under point (1) above, or as otherwise selected by the County for consideration.
- 9) At the sale of the bonds, provide experienced personnel whose services will be available to the County in the tabulation and compensation of bids. The Contractor shall be knowledgeable about electronic bidding formats for competitive bond sales. The Contractor shall coordinate the activities of the successful bidder and all parties toward payment and delivery of bonds.
 - 10) If requested, the Contractor shall advise the County in the selection of a paying agent/registrar for the debt instruments and shall assist in the preparation of agreements pertinent to these services and fees incident thereto.
 - 11) After the closing of the sale and delivery of the debt instruments, the Contractor shall deliver a schedule of annual debt service requirements on the debt instruments. In coordination with bond counsel, the Contractor shall assure that the paying agent/registrar has been provided with a copy of the authorizing ordinance, order or resolution.
 - 12) Official Statement and Related Documents – with assistance from the County's Bond Counsel, the Contractor shall prepare for review and approval by the County, a preliminary and final official statement relating to any bonds to be offered for sale to prospective buyers of bonds. The Contractor shall arrange for the distribution of documents to a comprehensive list of prospective brokers, underwriters, banks and financial institutions. The Contractor shall prepare bid forms that conform to the municipal securities standards for all securities upon which bids will be solicited. In advance of the of the proposed sale, the Contractor shall consult with and advise the County concerning advertising information to prospective brokers, underwriters, purchasers and buyers, the provision of information to broaden the interest of the bonds to be sold. The Contractor will recommend meetings with proposed purchasers of bonds as necessary.
 - 13) The Contractor shall recommend the structuring of any bond campaigns and persons to be involved in the various meetings.
 - 14) The Contractor shall furnish the County with a reasonable supply of disclosure materials and provide sets of same to prospective buyers of the bonds.
 - 15) The Contractor shall, on an on-going basis, assist the County in complying with reporting requirements under the Securities and Exchange Commission Rule 17 CFR 240.15c2-12 as amended.
 - 16) Meetings with the County – The Contractor shall attend meetings of the County and be available to County staff and legal counsel whenever requested; be available to assist in the preparation and review of possible legislation affecting the County and project financing; and, testify, if required, at legislative committee meetings regarding proposed legislation.
 - 17) During the term of the contract the Contractor shall not propose to underwrite negotiated transactions for, or on behalf of the County.

2. COMPENSATION, INVOICING, AND SET-OFF

- A. The services provided by the Contractor shall be compensated in accordance with the Fee Schedule, attached hereto as Exhibit A.
- B. Contractor shall submit a written request for payment to County whenever payment is due under this Agreement. Within fifteen (15) days of County's receipt of the written request, County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. Contractor acknowledges and agrees that County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, County shall tender payment for the accepted items or services. In the event County fails to render payment within thirty (30) days of the written certification accepting the items or services, County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.
- C. In the event Contractor breaches this Agreement, County may, without penalty, withhold any payments due Contractor for the purpose of set-off until such time as County determines the exact amount of damages it suffered as a result of the breach.
- D. Payment under this Agreement shall not foreclose the right of County to recover excessive or illegal payment.

3. EFFECTIVE DATE AND TERM

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate one (1) year later unless earlier terminated pursuant to Section 4. **TERMINATION** or 5. **APPROPRIATIONS AND AUTHORIZATIONS** of this Agreement. The County has the option to extend this Agreement for one (1) year. Any extension is dependent on the Contractor's performance of services. In no case will the term of this Agreement exceed a total of two (2) years in duration from the date of the initial Agreement. The County will exercise this option by amending this Agreement in no less than thirty (30) days prior to the expiration of the initial term.

4. TERMINATION

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If however, the breach cannot with due diligence be cured with thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to

cure the breach and advised the non-breaching party in writing that it intended to cure.

- B. Termination for Convenience of County. County may, in its discretion terminate this Agreement at any time for any reason by giving Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from Contractor's receipt of the notice. County shall pay Contractor for acceptable work, determined in accordance with the requirements set forth in this Agreement, performed before the effective date of the termination but shall not be liable for any work performed after the effective date of termination. Such termination shall be without penalty to County, and County shall have no duty to reimburse Contractor for expenditures made in the performance of this Agreement.

5. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

6. INDEPENDENT CONTRACTOR

Contractor and its agents and employees are independent contractors and are not employees or agents of County. Accordingly, Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of County. Except as may be expressly authorized elsewhere in this Agreement, Contractor has no authority to bind, represent, or otherwise act on behalf of County and agrees not to purport to do so.

7. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without County's advance written approval shall be null and void and without any legal effect.

8. SUBCONTRACTING

Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of County. Any attempted subcontracting or delegating without County's advance written approval shall be null and void and without any legal effect.

9. PERSONNEL

- A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.
- B. Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

10. RELEASE

Upon its receipt of all payments due under this Agreement, Contractor releases County, its Elected Officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

11. CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior approval from the County.

12. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT

- A. County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement.
- B. Contractor acknowledges and agrees that any material produced in whole or in part under or pursuant to this Agreement is a work made for hire. Accordingly, to the extent that any such material is copyrightable in the United States or in any other country the County shall own any such copyright.

13. CONFLICT OF INTEREST

Contractor represents that it has no and shall not require any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

14. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. Contractor specifically acknowledges and agrees that County shall not be responsible for any changes to Section 1, "SCOPE OF WORK", of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

15. ENTIRE AGREEMENT; INTEGRATION

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior or contemporaneous agreement, covenant or understandings verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

16. NOTICE OF PENALTIES

The Procurement Code, Section 13-1-28 through 13-1-199 NMSA 1978 imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes felony penalties for bribes, gratuities, and kickbacks.

17. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

- A. Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, Contractor specifically agrees not to discriminate against any person with regard to employment with Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

18. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

- A. In performing its obligations hereunder, Contractor shall comply with all applicable laws, ordinances, and regulations.
- B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules.

19. RECORDS AND INSPECTIONS

- A. To the extent their books and records relate to (i) their performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if

any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, Contractor agrees to (i) maintain such books and records during the term of this Agreement for a period of six (6) years from the date of final payment under this Agreement; (ii) allow County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").

- B. To the extent their books and records relate to (i) their performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in with GAAP.

20. INDEMNIFICATION

- A. Contractor shall defend, indemnify, and hold harmless County and its Elected Officials, agents, and employees from any losses, liabilities, damages, demands, suits causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to Contractor's breach of any representation or warranty made herein.
- B. County shall have the right to approve any counsel retained by Contractor to defend any demand, suit, or cause of action in which County is named, such approval not to be unreasonably withheld. Contractor agrees (i) that County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and (ii) that such suit will not be settled without County's consent, such consent not to be unreasonably withheld. If in County's judgment, a conflict exists between the interests of County and Contractor such demand, suit, or cause of action, County may retain its own counsel, whose fees shall be paid by Contractor.
- C. Contractor's obligations under this section shall not be limited by the provisions of any insurance policy Contractor is required to maintain under this Agreement.

21. SEVERABILITY

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

22. NOTICES

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Santa Fe County
Office of the County Attorney
102 Grant Avenue
Santa Fe, New Mexico 87501

To the Contractor: RBC Capital Markets, LLC
6301 Uptown Blvd. NE, Suite 110
Albuquerque, New Mexico 87110

23. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

- A. It is corporation duly organized and in good standing under the laws of the state of New Mexico.
- B. This Agreement has been duly authorized by Contractor, the person executing this Agreement has authority to do so, and once executed by Contractor, this Agreement shall constitute a binding obligation of Contractor.
- C. This Agreement and Contractor's obligations hereunder do not conflict with Contractor's articles of incorporation or by-laws or any corporate resolution adopted by Contractor.

24. LIMITATION OF LIABILITY

County's liability to Contractor for any breach of this Agreement by County shall be limited to direct damages and shall not exceed the maximum amount of potential compensation specified in Section 2, "**COMPENSATION AND INVOICING**", of this Agreement. In no event shall County be liable to Contractor for special or consequential damages, even if County was advised of the possibility of such damages prior to entering into this Agreement.

25. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

26. INSURANCE

- A. General Conditions. Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico

- B. General Liability Insurance, Including Automobile. Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy and liability limits in amounts not less than \$1,000,000 combined single limits of bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for County by Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off work; and contractual liability coverage under which this Agreement is an insured contract. County of Santa Fe shall be named additional insured on the policy.
- C. Workers' Compensation Insurance. Contractor shall comply with the provisions of the Workers' compensation Act.
- D. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), Contractor shall increase the maximum limits of any insurance required herein.
- E. Malpractice/Errors and Omissions Insurance. The Contractor shall procure and maintain during the life of this Agreement professional liability or errors and omissions insurance in amounts not less than \$1,500,000.00 per occurrence, \$2,500,000.00 per aggregate.

27. PERMITS, FEES, AND LICENSES

Contractor shall procure all permits and licenses, pay all charges, fees and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

28. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS, if applicable

The Contractor hereby irrevocably appoints Corporation Service Company, a New Mexico resident company located at 125 Lincoln Avenue Suite 223, Santa Fe, New Mexico, 87501, as its agent upon whom process and writs in any action or proceeding arising out of or related to this Agreement may be served. The Contractor acknowledges and agrees that services upon its designated agent shall have the same effect as though the Contractor were personally served within the state of New Mexico.

29. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

30. NEW MEXICO TORT CLAIMS ACT

CONTRACTOR

Date

FEDERAL IDENTIFICATION NO. 411416330

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees: at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

31. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Contractor agrees to compute and submit simultaneous and execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

32. SURVIVAL

The provisions of following paragraphs shall survive termination of this Contract:
INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE;
CONFIDENTIALITY; PUBLICATION, REPRODUCTION, AND USE OF
MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF
LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.


SANTA FE COUNTY

Kathy Holian, Chair Date
Santa Fe Board of County Commissioners

Attest:
Geraldine Salazar, County Clerk

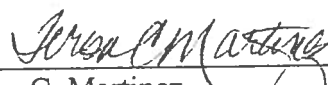
Date

APPROVED AS TO FORM

 11/25/13

Stephen C. Ross Date
Santa Fe County Attorney

FINANCE DEPARTMENT APPROVAL

 11/26/2013

Teresa C. Martinez Date
Santa Fe County Finance Director

EXHIBIT A - FEE SCHEDULE

1. **Hourly Rates.** Hourly rates would be charged for advice and services performed that are *not related to the issuance of a specific bond* based on the following schedule:

Managing Director	\$200.00/hour
Director	\$185.00/hour
Associate and Analyst	\$125.00/hour
Support	\$95.00/hour

2. **Financial Advisory Services.** As consideration for the services rendered by the Contractor and as a reimbursement for the expenses incurred, it is agreed that the County will pay, and the Contractor accepts, a fee based upon the following schedule, depending upon the amount of the bond issue involved.

*If the amount of a bond issued is:

<u>More Than</u>	<u>And Not More Than</u>	<u>Financial Advisory Fee</u>
\$ -0-	\$ 1,999,999	\$13,500
2,000,000	4,999,999	\$23,500
5,000,000	9,999,999	\$26,500
10,000,000	19,999,999	\$28,500
20,000,000	No Limit	\$35,000 + \$1.00 per \$1,000 over \$20,000,000

A refunding issue combined with a new money issue will be billed as a separate issue.

Fees for advance refunding issued bonds involving Escrow Agreements, will be the fee schedule set out above plus 10 percent. In addition to our Financial Advisory fee, the Contractor will charge a structuring fee to be negotiated on a case-by-case basis due to special circumstances such as litigation, delivery in financing or escrow agreements. The additional fees will not exceed 25% of the fee set out in the schedule above.

The Contractor will bill the County at Closing for each issue of bonds a net amount which will include a fee calculated on the above schedule as well as any out-of-pocket expenses incurred on behalf of the County plus gross receipts tax.

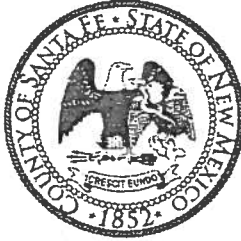
3. **Reimbursable Expenses.** In addition to the Financial Advisory fees above, out-of-pocket travel expenses and mileage expenses will be reimbursed by the County at cost plus gross receipts tax. Due to corporate policy, reimbursable expenses cannot be paid by the Contractor. However, all expenses incurred during the issuance of bonds will be reviewed by the Contractor for accuracy and forwarded to the County for payment from bond proceeds when the bonds are issued to provide additional savings in Gross Receipts Tax to the County.



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: November 26, 2013

TO: Board of County Commissioners

FROM: Bill Taylor, Procurement Manager *BT 11/26/13*

VIA: Katherine Miller, County Manager

ITEM AND ISSUE: BCC Meeting December 10, 2013

REQUEST APPROVAL TO AWARD SIX (6) CONTRACTS FOR NO. 2014-0131-PW/PL ON-CALL ARCHITECTURAL & ENGINEERING SERVICES, EACH IN THE AMOUNT OF \$500,000 FOR A TOTAL OF \$3,000,000 EXCLUSIVE OF GRT AND REQUEST SIGNATURE AUTHORITY FOR COUNTY MANAGER TO EXECUTE THE PURCHASE ORDERS-BILL TAYLOR/PROCUREMENT

ISSUE

The Purchasing Division requests authorization to enter into six (6) On-Call Architectural & Engineering Agreements No. 2014-0131-PW/PL with Riskin Associates Architecture, Lorn Tryk Architects, Lee Gamelsky Architects, Conron & Woods Architects, SMPC Architects and Molzen Corbin, each in the amount of \$500,000, and requests signature authority for the County Manager to execute the purchase orders.

BACKGROUND

The Purchasing Division recognized a need for on-call architectural & engineering services to be provided on an as-needed basis as specific architectural projects are identified and as funding becomes available. The availability of the on-call contracts will enable projects requiring building design for construction, renovation and repairs to move forward in a more efficient and timely manner.

The Purchasing Division issued Request for Proposals (RFP) #2014-0131-PW/PL On-Call Architectural & Engineering Services on October 20, 2013. This solicitation was advertised in the Santa Fe New Mexican and the Albuquerque Journal and posted on the County's Website. Thirty-

two (32) firms attended the mandatory pre-proposal conference and fifteen proposals were received in response to the RFP.

All proposals were reviewed by the Purchasing staff to ensure responsiveness. An evaluation committee consisting of five County members reviewed, scored and ranked the proposals as follows:

1. Riskin Associates Architecture, Santa Fe, N.M.
2. Lorn Tryk Architects, Santa Fe, N.M.
3. Lee Gamelsky Architects, Albuquerque, N.M.
4. Conron & Woods Architects, Santa Fe, N.M.
5. SMPC Architects, Albuquerque, N.M.
6. Molzen Corbin, Albuquerque, N.M.
7. Lloyd & Associates Architects, Santa Fe, N.M.
8. Soleil West, Santa Fe, N.M.
9. Architectural Alliance, Santa Fe, N.M.
10. Anissa Construction, Albuquerque, N.M.
11. Studio SW Architects, Santa Fe, N.M.
12. Spears Architects, Santa Fe, N.M.
13. Atkin Olshin Schade Architects, Santa Fe, N.M.
14. Aria Studio Consultants, Edgewood, N.M.
15. Crenshaw Consulting Group, Albuquerque, N.M.

Although most of the proponents are qualified architectural firms the evaluation committee made its determinations based on the most qualified firms that provided the best prepared and most responsive proposals. These factors resulted in the top six (6) architectural firms listed above being selected for multiple award contracts after careful deliberation by the evaluation committee.

RECOMMENDATION

The Purchasing Division recommends contract award for On-Call Architectural & Engineering Services Agreement No. 2014-0131-PW/PL with Riskin Associates Architecture, Lorn Tryk Architects, Lee Gamelsky Architects, Conron & Woods Architects, SMPC Architects and Molzen Corbin, each in the amount of \$500,000, and signature authority for the County Manager to execute the purchase orders.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Kathleen S. Holian, Chairperson
Santa Fe County Board of Commissioners

Date

ATTEST

Geraldine Salazar,
Santa Fe County Clerk

Date

APPROVED AS TO FORM

Stephen C. Ross
Stephen C. Ross
Santa Fe County Attorney

11/26/13
Date

FINANCE DEPARTMENT APPROVAL

Teresa C. Martinez
Teresa C. Martinez
Finance Director

11/26/2013
Date

CONTRACTOR

Signature

Date

Print Name

Title

Federal Identification Number: _____

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Kathleen S. Holian, Chairperson
Santa Fe County Board of Commissioners

Date

ATTEST

Geraldine Salazar,
Santa Fe County Clerk

Date

APPROVED AS TO FORM

Stephen C. Ross
Stephen C. Ross
Santa Fe County Attorney

11/24/13
Date

FINANCE DEPARTMENT APPROVAL

Teresa C. Martinez
Teresa C. Martinez
Finance Director

11/26/2013
Date

CONTRACTOR

Signature

Date

Print Name

Title

Federal Identification Number: _____

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Kathleen S. Holian, Chairperson
Santa Fe County Board of Commissioners

Date

ATTEST

Geraldine Salazar,
Santa Fe County Clerk

Date

APPROVED AS TO FORM

Stephen C. Ross
Stephen C. Ross
Santa Fe County Attorney

11/24/13
Date

FINANCE DEPARTMENT APPROVAL

Teresa C. Martinez
Teresa C. Martinez
Finance Director

11/26/2013
Date

CONTRACTOR

Signature

Date

Print Name

Title

Federal Identification Number: _____

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Kathleen S. Holian, Chairperson
Santa Fe County Board of Commissioners

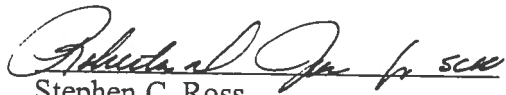
Date

ATTEST

Geraldine Salazar,
Santa Fe County Clerk

Date


APPROVED AS TO FORM


Stephen C. Ross
Santa Fe County Attorney

11/26/13

Date

FINANCE DEPARTMENT APPROVAL


Teresa C. Martinez
Finance Director

11/26/2013

Date

CONTRACTOR

Signature

Date

Print Name

Title

Federal Identification Number: _____

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Kathleen S. Holian, Chairperson
Santa Fe County Board of Commissioners

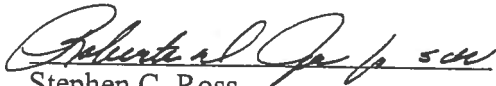
Date

ATTEST

Geraldine Salazar,
Santa Fe County Clerk

Date


APPROVED AS TO FORM


Stephen C. Ross
Santa Fe County Attorney

11/26/13

Date

FINANCE DEPARTMENT APPROVAL


Teresa C. Martinez
Finance Director

11/26/2013

Date

CONTRACTOR

Signature

Date

Print Name

Title

Federal Identification Number: _____

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Kathleen S. Holian, Chairperson
Santa Fe County Board of Commissioners


Date

ATTEST

Geraldine Salazar,
Santa Fe County Clerk

Date

APPROVED AS TO FORM



Stephen C. Ross
Santa Fe County Attorney

11/20/13

Date

FINANCE DEPARTMENT APPROVAL



Teresa C. Martinez
Finance Director

11/26/2013

Date

CONTRACTOR

Signature

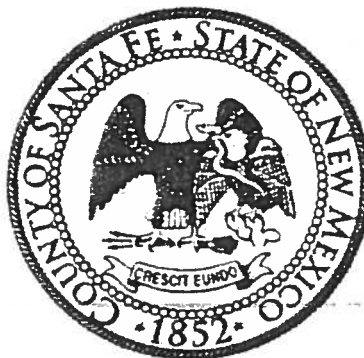
Date

Print Name

Title

Federal Identification Number: _____

AGREEMENT BETWEEN SANTA FE COUNTY AND ARCHITECT FOR PROFESSIONAL ARCHITECTURAL SERVICES



**SANTA FE COUNTY
ADMINISTRATIVE SERVICES DEPARTMENT**

PURCHASING DIVISION

2013 EDITION, Part A of Two Parts

Changes, additions, deletions and/or any modifications other than those agreed upon execution of this contract without the written consent of Santa Fe County shall render this document null and void.

THIS AGREEMENT is made and entered into on this ____ day of _____, 2013, by and between SANTA FE COUNTY (hereinafter referred to as the "County"), a New Mexico political subdivision, and RISKIN ASSOCIATES ARCHITECTURE, an incorporated company licensed to do business in the State of New Mexico, (hereinafter referred to as the "Architect").

Hereinafter "County":

Santa Fe County
PO Box 276
102 Grant Avenue
Santa Fe, New Mexico 87504-0276
TELEPHONE: 505-986-6200

Hereinafter "Architect":

Riskin Associates Architecture
227 East Palace Avenue
Suite C
Santa Fe, New Mexico 87501
TELEPHONE: 505-983-0722

RECITALS

WHEREAS, Santa Fe County has identified a need for On-Call Architectural and Engineering Services to be provided on an "as-needed" basis for a variety of projects throughout the County as funding becomes available and as specific needs are identified;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112, competitive sealed proposals were solicited via a formal Request for Proposal, RFP No. 2014-0131-PW/PL for these services;

WHEREAS, Santa Fe County has selected multiple qualified and experienced architectural professionals to assist the County in a variety of building and renovation design projects pursuant to NMSA 1978, Section 13-1-154;

WHEREAS, based upon the evaluation criteria established within the request for proposals for the purpose of determining the most qualified Offerors, the County has determined the Architect as one of the most responsive and highest rated Offerors;

WHEREAS, the County requires the services of the Architect, and the Architect is willing to provide these services and both parties wish to enter into this Agreement.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. PROJECT DESCRIPTION

The Project is to provide on-call design and other related architectural services for a number of projects on an "as needed" basis determined by the County. The County, at its sole discretion, shall determine what projects are assigned to the Architect. During the term of the Agreement, Project Assignment (Attachment 1) that includes a detailed Scope of Work and Project Schedule will be issued to the Architect by the County. Upon receipt of a Project Assignment, the Architect will be required to submit Exhibit A, Compensation and Schedule form and Exhibit F, Consultant List, if acceptable to the County, the Architect will receive written Authorization to Proceed (Attachment 2).

2. SCOPE OF WORK

- A. The Scope of Work as determined by the County will be included at time of issuance of each written project assignment to the Architect.
- B. Architectural services may include, but not limited to, the following:

- 1) *Evaluation & Planning Services*

- Programming
- Functional relationships/flow diagrams
- Existing facilities surveys
- Conditions assessments
- Marketing studies
- Economic feasibility studies
- Project financing
- Site analysis, selection and development planning
- On-site and off-site utility studies
- Environmental studies and reports
- Zoning review

2) *Design Services*

- Code review
- Civil design
- Landscape design
- Architectural design
- Interior design
- Structural design
- Mechanical design
- Electrical design
- Solar design
- Leeds and sustainable design
- Materials research and specifications
- Cost Estimating
- Architectural renderings/models

3) *Bidding and Negotiation Services*

- Bidding documents
- Attendance pre-bid conference
- Addenda/responding to bidder inquiries
- Bidding/Negotiation
- Analysis of alternates and substitutions
- Bid evaluation

4) *Contract Administration Services*

- Submittal services
- Review of Pay Applications
- On-site inspection of work

- Testing and inspection administration
- Supplemental documentation
- Quotation requests/change orders
- Contract cost accounting
- Furniture & equipment installation administration
- Interpretations & decisions
- Project close-out

5) *Facility Administration Services*

- Maintenance and operational programming
- Startup assistance
- Record drawing
- Warranty review
- Post contract evaluation

3. BASIS FOR COMPENSATION

The fee for basic services generally is based on a percentage of the Maximum Allowable Construction Cost (MACC) as may be adjusted by building type, design complexity, and Scope of Work. The MACC for the purpose of calculating the fee for basic services is not adjusted at the time of construction contract award. If, at any time, the MACC and/or the percentage are changed by amendment to the Agreement, the basic services fee shall be adjusted as appropriate. No fee adjustment shall be made for phases already completed.

4. COMPENSATION, INVOICING, AND SET-OFF

- A. In consideration of its obligations under this Agreement the Architect shall be compensated as follows:
- B. County shall pay to the Architect in full payment for services satisfactorily performed and all costs and expenses shall be in accordance with Exhibit A Compensation and Schedule.
- 1) The total amount payable to the Architect under this Agreement shall not exceed Five Hundred Thousand Dollars (\$500,000.00) exclusive of gross receipts tax. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Architect;
 - 2) This amount is a maximum and not a guarantee that the work assigned to be performed by Architect under this Agreement shall equal the amount stated herein. The parties do not intend for the Architect to continue to provide services without compensation when the total compensation

amount is reached. The County will notify the Architect when the services provided under this Agreement reach the total compensation amount. In no event will the Architect be paid for services provided in excess of the total compensation amount without this Agreement being amended.

- C. The Architect shall submit a written request for payment, on the form attached hereto as Exhibit B Architect Pay Request Form, when payment is due under this Agreement within each phase of services. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. The Architect acknowledges and agrees that the County may not make any payment hereunder unless and until the County has issued a written certification accepting the contractual items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.
- D. In the event the Architect breaches this Agreement, the County may, without penalty, withhold any payments due the Architect for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.
- E. Payment under the Agreement shall not foreclose the right of the County to recover excessive or illegal payment.
- F. The Architect shall submit, with its billings at the completion of the Project, certification that payment has been made to all consultants, suppliers, and others for materials and services required by this Agreement.
- G. No deductions or withholdings shall be made from the Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to Contractors, or on account of the cost of changes in the Work other than those for which the Architect may be legally liable in accordance with this Agreement.
- H. In the event the County receives Notice from any person, Consultant, Sub consultant, or other third party, that the Architect has failed to pay such person(s) for Work performed in accordance with Agreements, the Architect shall, at the request of the County, and in no more than ten (10) calendar days, provide all documentation the County believes necessary to determine whether such payment is due, or reasons for non-payment of disputed amounts. In the event the County

determines the claim to be valid and payment is due, or in the absence of aforementioned documentation, the County may authorize direct payment of any unpaid bills, withholding from the Architect's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such claims until satisfactory documentation is furnished that all liabilities have been fully discharged or reasons for non-payment of disputed amounts are provided by the Architect. In no event shall these provisions be construed to impose any obligation upon the County to the Architect.

- I. In the event of termination or suspension of the Project due to the fault of parties other than the Architect, the Architect shall be compensated for services performed to the date of termination.

5. BASIC SERVICES

The Architect shall perform professional services including basic architectural, landscaping architecture, interior design, structural, mechanical, civil and electrical engineering services. The Architect shall represent that all tasks will be performed in accordance with generally acceptable professional standards and further represent that the advice and consultation provided shall be within the Architect's authority and capacity. The Architect shall comply with the regulations, laws, ordinances and requirements of all levels of government applicable to any assigned project.

The services to be provided during each phase listed herein includes all consulting services required by the Architect to provide the professional architectural and engineering services incidental to the design and construction of the Project. The intent of this Agreement is to design completely functional and operational facilities within the identified scope of work and cost limitation.

The Architect's Basic Services shall consist of the following:

- A. Programming Phase. This phase involves the collection of facts, identifying concepts, analyzing the site and determining the proper operational needs of the agency. Based on the data provided by the County and pursuant to consultation with the County, the Architect shall prepare a document that defines the scope of the project. The programming document shall reflect the limits of the maximum allowable construction costs (MACC) and provide an estimated duration for construction.
 - 1) The Architect shall include in the program document the results of site investigation and the field verification of any information provided by the County.
 - 2) The County shall work with the Architect to ensure that the information required by the County is made available to the Architect. This

information and other requests concerning organization of functions shall be provided in the form of a written memorandum.

- 3) The County shall schedule a meeting between the Architect and the County's Department representative to define the relationship among all parties. The Architect shall advise the County, in writing, of any information required which has not been provided by the County and/or any conflicts between the established program requirements, and the MACC.
- 4) The Architect shall obtain the approval of the County, in writing, of the Program Phase before commencing work on the Schematic Design Phase. The Architect shall provide written confirmation, to be transmitted with the Program Document to the County, that the Architect has visited the site, familiarized itself with the local conditions under which the work is to be performed, correlated its observations with current code requirements and life safety needs, and has a clear understanding of existing conditions for the Project.

B. Schematic Phase. Upon completion of the Programming Phase the Architect shall produce studies consisting of drawings and other documents necessary to illustrate the general planning concepts, probable architectural, engineering, and building systems, materials and preliminary alternatives, a breakdown of the budget on current area, volume, or other unit costs, and the approximate dimensions of the programmed areas. The number of iterations of such studies produced shall be sufficient to accomplish and demonstrate a design concept for the Project that is satisfactory to the County. The Architect shall incorporate in the Schematic Design Drawings and documents the provisions of Green Building Standards and current State-adopted Building Code and current ASHRAE 90.1 are incorporated herein by reference. Where applicable, the provisions of these documents shall apply. The Architect shall brief, and obtain the written approval from the County for the Schematic Design Drawing and documents. This review and approval shall include the life cycle costs. The Architect shall obtain the written approval of the County of one of the proposed design schemes, as modified by any comment during review, before commencing work on the Design Development Phase.

- 1) The Architect shall provide a feasibility report as part of this phase on the energy sources other than fossil fuels for the heating and air conditioning of the proposed building, if applicable.
- 2) The Architect shall request site survey data from the County.
- 3) The responsibility for bringing the Project within the MACC and

compliance with construction directives remains with the Architect. Should the Architect at any time conclude that the budget and the scope of the work to be accomplished are incompatible, the County shall be notified immediately in writing, with proposed recommendations to reconcile the incompatibility.

- C. Design Development Phase. Upon completion of the Schematic Phase, the Architect shall prepare the Design Development Documents consisting of drawings, outline specifications, and other documents to fix and describe the size and character of the entire project as to civil, structural, mechanical, plumbing, and electrical systems materials and such other design essentials as may be appropriate. Additionally, these documents shall identify design features, program modifications, the probable Project Schedule, equipment installed in the Project or furnishings required, and a statement that identifies the need for any additional data, surveys, or tests. The Architect shall provide sufficient, alternative design solutions on major design features to allow the County to ascertain that the recommended design achieves practical programmatic and economic solutions, within the limitations of the authorized program, schedule, and budget; include staffing and occupancy considerations provided by County. The Architect shall acquire the approval, in writing, of the County of all documents associated with the Design Development Phase before commencing work on the Construction Documents Phase.
- 1) The Architect shall submit to the County for review and written approval a refined statement of Probable Construction Cost at the completion of the Design Development Phase. Should the Architect conclude, at any time, that the budget and the scope of work to be accomplished are incompatible; the County shall be notified immediately in writing, with proposed recommendations to reconcile the incompatibility.
 - 2) Should the County initiate or require a material change from the approved Design Development Documents and there is no fault or responsibility of the Architect related to the County's initiation or requirement of the change, the Architect's efforts implementing said change(s) shall be compensated as an Additional Service and the schedule of delivery of the Architect's services shall be equitably adjusted if/as appropriate.
- D. Construction Document Phase. Upon the completion of the Design Development Phase, the Architect shall prepare and complete the Construction Documents based upon information contained in the Design Development drawings and other documents approved by the County. These Construction Documents shall provide the detailed requirements for the construction of the entire project.
- 1) The Construction Documents shall include written and graphic elements

indicating contracting requirements, specifications and contract drawings. If Architect is to provide professional design services, layouts of equipment or certifications related to systems, materials or equipment that are not included in these Construction Documents, the Architect shall clearly define and identify such services and specify all performance and design criteria that such services must satisfy within the Construction Documents. The County or the Architect shall not be responsible for the adequacy of the performance or design criteria specified by the Architect and required by the Construction Documents.

- 2) In preparing the Construction Document, the Architect shall, as directed by the County, prepare the necessary bidding information, bidding forms, and the project manual, which shall include the Conditions of the Contract for Construction (general, supplementary, and other conditions of the contract), and the Standard Form of Agreement between County and Contractor. The Architect shall incorporate in the Invitation for Bid (IFB) documents the provisions for Index to Bidding as provided as Exhibit H.
- 3) The Invitation for Bid shall be prepared by the Architect as directed by the County, and shall include the bid date, location and time, which shall be prepared by the County and Architect and submitted to the County's Purchasing Division during the Bidding Phase. The Architect shall assist the County in filing the required documents for the approval of any governmental or other authorities having jurisdiction over the Project assigned.
- 4) Construction Drawings: In addition to the electronic CAD files, PDF files and related electronic documents, the Architect shall provide three (3) full drawing sets to the County. Hand-drawn drawings, when approved in advance by the County, shall be prepared non-glossy polyester film 3-ml thickness minimum. Standard sheet sizes may be architectural sizes 24" x 36" or 30" x 42".
- 5) Electronic Data: The County requires that final Construction Documents and Specifications are prepared using computer technology in the formats prescribed in paragraph 12 "software requirements".
- 6) Only materials and systems available at the time of this Agreement or reasonably believed to become available prior to the expiration of the Construction Contract shall be specified in the Contract Documents. The Bidding or RFP Documents shall include a list of those items (or categories of items) for which shop drawings or submittals are required.

- 7) The Architect shall furnish Bidding Documents to the County bearing the approval of the following:
 - a. Construction Industries Division, Regulation and Licensing Department,
 - b. Santa Fe County Technical Review Division,
 - c. If applicable: Occupational Health and Safety Bureau; Environmental Protection Division; Environment Department,
 - d. If applicable: The Health Facility Licensing and Certification Bureau; Health Improvement Division; Department of Health,
 - e. If applicable: N.M. Environment Department; N.M. Energy, Minerals and N.M. Natural Resources Department and N.M. Department of Information Technology and Infrastructure Voice Radio (IVR).
- 8) The Architect shall provide a signature-approval block on the front sheet of the drawings and specifications for the following and obtain signatures of the following:
 - a. Santa Fe County,
 - b. Utility companies (as appropriate),
 - c. Design Professional Certification: Project meets as a minimum – current ASHRAE 90.1 requirements,
 - d. Department of Information Technology, IVR (as appropriate).
- 10) Project Wage Determination: The Architect shall, as directed by the County, request from the State of New Mexico Labor and Industrial Division, Workforce Solutions a minimum wage rate determination for the Project pursuant to Section 13-1-11, NMSA 1978. The Architect shall provide the Division a description of the Project, as estimate of construction cost, an approximate bid or proposal opening date, and any other pertinent information required by the Labor and Industrial Division. The Architect shall include a wage rate determination in the Bidding or RFP Documents. Federally funded projects will required both state and federal wage rates.
- 11) Upon completion of the Construction Documents, the Architect shall brief the County on the Bidding Documents, specifically addressing previous County concerns and requirements. At this briefing, the Architect shall furnish the County a final and detailed statement of probable construction cost, including an updated Project schedule. The Architect shall pay any fees incurred in the preparation of the detailed cost estimate provided by the Architect.

- 12) The responsibility of bringing the Project within the Maximum Allowable Construction Cost (MACC) and compliance with construction directives remains with the Architect. Should the Architect at any time conclude that the budget and the scope of work to be accomplished are incompatible; the County shall be notified immediately in writing, with proposed recommendations to reconcile same.
- 13) The Architect shall return all original documents and drawings provided by the County to the County upon the County's request, but in no case later than when the Construction Documents Phase has been completed. Payment for the Construction Documents Phase will not be made to the Architect until the County has received said documents and drawings.
- 14) The Architect shall acquire the approval, in writing, of the County of all documents, and any and all bid alternates, associated with the Construction Documents Phase before commencing work on the Bidding Phase.

E. Bidding and Negotiation Phase. The Architect, following the County's written approval of the Bidding Documents, shall assist the County in obtaining bids and in awarding and preparing contracts for construction, as directed by the County. The finalized Invitation for Bid for Construction shall be prepared by the County and forwarded to the Architect for bidding purposes and the County shall issue a purchase order authorizing the advertisement for the Project.

- 1) The Architect shall provide sets of Bidding Documents as required to the County, and sets as appropriate to all Bidders requesting documents for bidding purposes. Prime bidders shall be defined as General Contractors, who will be allowed no more than three sets; major subcontractors as listed in the form, or other suppliers.
- 2) The Architect shall, as directed by the County, provide an additional number of documents to be placed in plan rooms as well as in the Architect's office for review by prospective Bidders.
- 3) The Architect shall also make sets available to other prospective parties as requested. The Architect may charge the cost of reproduction to the party requesting the documents.
- 4) The Architect shall clarify and answer any questions about the Bidding Documents, as directed by the County, during the bidding process and shall issue Addenda as required to all Bidders, and the County.

- 5) All Addenda, including all revised drawings and sections, must be approved by the County prior to distribution. The Architect shall allow sufficient time for County to review and accept each addendum.
- 6) The Architect shall provide assistance to the County to identify the apparent successful bidder(s) and shall provide written recommendation to accept or reject the bids.
- 7) The Architect shall not discuss with bidders, news media, etc., any presumption of award until the award is decided by the County.

F. Construction Phase-Administration of the Construction Contract. The Construction Phase will commence with the award of the contract for construction and continue until the eleven month inspection and report is submitted by the contractor and approved by the County.

- 1) The Architect shall provide administration of the construction contract as required and defined in the Conditions of the Contract for Construction. The extent of the Architect's duties and responsibilities and the limitations of its authority thereunder shall not be modified without the County's written consent.
- 2) The Architect shall be the representative of the County during the Construction Phase and shall advise and consult with the County. Instructions to the Contractor shall be forwarded only through the Architect. The Architect shall have authority to act on behalf of the County only to the extent provided in the Contract Documents and any amendments thereto.
- 3) The Architect shall at all times have access to the Work, whether it is in preparation or progress.
- 4) The Architect shall submit to the County, for approval, a list of critical inspection points based upon the construction schedule furnished by the Contractor. The Architect shall make periodic visits to the site at such times as appropriate during the progress of the Work for the purposes of notifying the County on the progress and condition of the Work and adequately represent the County. Additionally, the Architect shall familiarize itself with the progress and quality of the Work and determine if the Work is proceeding substantially in accordance with the Contract Documents. On the basis of on-site observations, the Architect shall endeavor to guard the County against defects and deficiencies in the construction. Should the Architect determine that any portion of the

Work varies from the requirements of the Contract Documents, the Architect shall immediately notify the Contractor and the County of the nature of the work required to correct such non-compliance.

- 5) The Architect shall provide a minimum of weekly on-site observation during the construction phase in an attempt to guard the County against defects and deficiencies in the construction, in addition to critical inspections and other reviews and evaluations required by the progress of the Work. The results of all on-site observations shall be documented in field reports submitted to the County within seven (7) days of each such site visit.
- 6) The Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, for acts or omissions of the Contractor, subcontractors, or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.
- 7) The Architect shall determine, certify, and make recommendations to the County for payment for the amounts owing to the Contractor subject to the County's approval, based on observations at the site and evaluations of the Contractor's Applications for Payment. The Architect shall issue Certificates for Payment in such approved amounts as provided in the Contract Documents.
- 8) The issuance of a Certificate and recommendation for payment shall constitute representation by the Architect to the County, based on the Architect's observations at the site as provided in subparagraph 4) above and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that the quality of the Work is substantially in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications state in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the Contractor has used the money paid on account of the Contract Sum.
- 9) The Architect shall render interpretations of the documents necessary for

the proper execution or progress of the Work with reasonable promptness on written request of either the County or the Contractor, and shall render written decisions within a reasonable time on all claims, disputes, and other matters in questions between the County and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents.

- 10) Interpretations and decisions of the Architect shall be consistent with the requirements and intent of the Contract Documents and shall be in written or graphic form.
- 11) The Architect's decisions in matters relating to artistic effect shall be final if consistent with the requirements of the Contract Documents.
- 12) The Architect shall have authority to reject work that does not conform to the Contract Documents. Where rejected Work is not promptly corrected, the Architect shall recommend to the County that the Work shall stop. Whenever, in the Architect's professional opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work be then fabricated, installed, or completed.
- 13) The Architect shall review the Contractor's submittals, such as shop drawings, product data, and samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents; and, for each submittal, the Architect shall designate in writing that the Architect:
 - a. Takes no exception to this submittal
 - b. Rejects the submittal
 - c. Requires corrections as noted by the Architect
 - d. Requires revisions and resubmitted to the Architect
 - e. Requires the Contractor to submit the specified item
 - f. Approves as corrected

Such action shall be taken with reasonable promptness so as to cause no delay. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

- 14) Necessary professional services or construction required to repair or overcome problems caused by the Architect's errors, omissions, inadequacies, or changes not authorized by the County in the preparation of the documents or design shall be the responsibility of the Architect or

its consultants, without additional cost to the County.

- 15) All Change Orders, defined in the Conditions of the Contract for Construction, shall be prepared by the Architect. Such Change Orders shall not become effective or binding on the County or Contractor until signed by the County and others whose signatures are required therein. Attached in Exhibit G and incorporated into this Agreement by reference is a copy of the Change Order form. Using this form, the Change Order shall be initiated by the party requesting a change. Approval in writing by the County of a completed Change Order modifies this Contract for construction to the extent indicated. No Work that could reasonably be expected to alter the contract price or materially alter the Project shall be undertaken until the County has approved a completed Change Order that outlines the desired change. Any deviation from the above described Change Order process shall be considered a material breach of this Contract. The County reserves the right to seek remedy from the Architect for Change Orders made necessary due to the Architect's errors and omissions.
- 16) Upon prior notice to the County, the Architect shall make observations to determine the Dates of Substantial Completion and Final Completion. The Architect shall obtain and forward to the County for the County's review of written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Architect shall then issue a final Certificate for Payment.
- 17) The extent of the duties, responsibilities, and limitations of authority of the Architect as the County's representative during construction shall not be modified or extended without written consent of the County and the Architect.
- 18) Should the Architect, its staff, or its consultants direct the Contractor, or its Subcontractors to undertake work for which additional compensation could reasonably be expected, and if such work is not:
 - a. An emergency endangering life and property
 - b. Required by the Contract Documents
 - c. Required by approved Change Orders (signed by the Architect, the County and the Contractor)

Payment for such work, if accomplished without written authorization, shall not be borne by the County and shall constitute adequate grounds for dismissal or other action against the Architect.

- 19) As part of the Architect's Basic Services, the Architect shall modify the original reproducible drawings and the Project Manual, delineating recorded built conditions of the Project or record documents compiled from the records of the Contractor and the Architect, showing all changes in the Work. This set of Documents shall also include record documents showing actual location of all Work.
 - 20) Record Drawings: Record Drawings and documents are to be delivered to the County within thirty (30) days following Substantial Completion of the project by the Architect. Record Drawings shall be produced by the Architect and shall consist of a set of reproducible drawing sheets, based on a Mylar format, specifications on 8 ½ x 11 inch paper and shall provide all the As-Built conditions documented by the Contractor for the project. The Architect shall also provide to the County a set of PDF drawing files and CAD drawing files formatted on CD-ROM with file format to follow the standard utilized by the County at the time of this Agreement. The CD-ROM files shall duplicate the conditions documented on the Mylar Record Drawings. Further, the Architect shall deliver three (3) sets of the operations and maintenance manuals, hard copy and electronic, training videos, written warranties and related documents.
- G. Project Closeout. Upon receipt of written notice that construction is ready for final inspection and work is found acceptable for final payment. The Architect shall provide "as built" drawings in hard copy and electronic form following completion of the project.
- H. 11 Month Inspection Phase. The Architect shall submit to the County its recommendations regarding the completion of all construction contracts. The Architect shall obtain from the Contractor all releases, waivers of lien, guarantees, warranties, maintenance data, bonds, and acknowledge receipt of the Contractor's record drawings. The Architect shall obtain and deliver to the County a signed receipt for all materials turned over.
- 1) The Architect shall attend one design process analysis meeting to assess implementation of sustainable design and construction requirements into the project and review any lessons learned from the overall effort.
 - 2) The Architect shall, eleven months after substantial completion of the project, schedule a meeting with the Architect, Architect's consultants and the County to evaluate the building and its operations, inspect architectural systems, and endeavor to discover defects in materials, equipment, and workmanship. The Architect shall provide a written report of this activity to the County within seven (7) calendar days. The

County, through the Architect, shall notify affected Contractor of any corrective action noted in the report.

6. PROJECT REPRESENTATION BEYOND BASIC SERVICES

If the County and the Architect agree that more extensive representation for observation of the Site than that described in subparagraph E.F.5 shall be provided, the Architect shall, upon written authorization of the County, provide one or more Project Representatives to assist the Architect in carrying out such responsibilities at the site.

- A. Subject to County's approval, the Architect's Project Representative shall be selected, employed, and directed by the Architect. The Architect shall be compensated therefore as mutually agreed between the County and the Architect as set forth in an approved amendment to this Agreement, which shall, in addition, describe the duties, responsibilities, and limitations of authority of such Project Representative(s).
- B. Through the observations of such Project Representative(s), the Architect shall provide further protection for the County against defects and deficiencies in the Work to determine that the Work is carried out in conformance with the plans and specifications; but the furnishing of such project representation shall not diminish the rights, responsibilities, or obligations of the Architect as described in this Agreement.
- C. The County reserves the right to designate a County Representative in lieu of the Architect's Project Representative to provide additional site representation for the County beyond that provided by the Architect. If the County elects to provide a County Representative in lieu of a Project Representative, this subsection shall not diminish the rights, responsibilities, or obligations of the Architect established in this Agreement. The County Representative's duties and limits of authority shall be established so as not to conflict with those of the Architect. The Architect shall cooperate with the County Representative in the performance of its duties.
- D. The County reserves the right to employ an independent cost consultant to provide value and cost architectural or engineering services on the Project. If a cost consultant is retained, an amendment to this Agreement will be required identifying the duties and limits of authority of the cost consultant. The Architect shall cooperate with the cost consultant in the performance of the cost consultant's duties.

7. ADDITIONAL SERVICES

Additional Services of the Architect are services that are in addition to but not included in Basic

Services, provided that the Architect is not obligated to perform, furnish or incur such services as a part of the Architect's Basic Services. These services may be identified as part of the Architect's fee proposal and included with the lump sum fee as such. These services shall be provided when authorized in advance in writing by the County, and they shall be paid for by the County as outlined below. Attached as Exhibit D and incorporated into this Agreement by reference is a copy of the Architect's Additional Services Amendment Form. Additional Services may include, but are not limited, to the following:

- A. Providing financial feasibility or other special studies.
- B. Providing planning surveys, site evaluations, environmental impact studies, or comparative studies of prospective sites other than those services required under Basic Services to provide a complete and operable facility.
- C. Providing Services related to future facilities, systems, and equipment that are not intended to be constructed during the Construction Phase.
- D. Making revisions in drawings, specifications, or other documents when such revision are inconsistent with written approvals or instructions previously given and are due to causes beyond the control or not the responsibility of the Architect. This does not apply to revisions necessary for final approval of Programming, Schematic Design Studies, and Statement of Project Scope, and Design Development Documents, or to revisions necessary to bring the Project within the designated MACC. The Architect shall receive written authorization from the County before commencing work on any change or alteration to the Contract Documents.
- E. Preparing drawings, specifications, and supporting data and providing other services in connection with Change Orders, provided that the adjustment in the Basic Compensation resulting from the adjusted Construction Cost is not for work which should have been provided pursuant to Basic Services and provided that such Change Orders are required because of causes not related to the actions or responsibilities of the Architect.
- F. Conducting investigations, surveys, valuations, inventories, or detailed appraisals of existing facilities when such work is not covered by this Agreement.
- G. Providing consultation concerning replacement of any Work damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such Work.
- H. Providing tests, inspections, and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

- I. Providing all required work for design, selection, and preparation of contract documents, and bidding for the procurement of furniture, fixtures, and related equipment. Following installation of furniture, fixtures, and equipment, Architect shall inspect the installation and prepare a list for items requiring correction. Upon notification from the installer that all corrections have been made, Architect shall again inspect the site to confirm that corrections were properly done and authorize final payment of the furniture, fixtures and equipment.
- J. Payments for additional services of the Architect shall be a negotiated lump sum, excluding additional services of consultants.
- K. Payments for additional services of consultants, including but not limited to the additional structural, civil, landscape, interior design, mechanical, and electrical services, shall be computed by applying a multiple not to exceed of 1.10 times the amounts billed to the Architect for such services. The Architect shall provide to the County for approval, hourly rates for consultants and its employees detailed by professional levels prior to incurring any liability for Additional Services. GRT will be added as a separate item in the pay request.

8. MEETINGS

The Architect shall be attendance at, and record minutes of, all meetings required by this Agreement throughout the course of the project as set forth herein. The Architect shall initiate additional meetings germane to the Agreement when authorized, in writing, to the County. The Architect shall distribute copies of meeting minutes to participants and other interested parties as directed by the County within seven (7) calendar days. The Architect consultants shall attend each meeting as appropriate or as requested by the County.

9. MONTHLY PROGRESS REPORTS

- A. The Architect shall submit monthly progress reports of design/construction activities to the County. Failure to submit monthly reports may result in delay to the Architect's progress payments. The report shall include:
 - 1) Activities completed and items pending since last report,
 - 2) Projected progress,
 - 3) Comparison of schedule to actual progress, and
 - 4) Decisions or information required.

B. The Architect shall request from the County the following:

- 1) Information sufficient for the Architect to develop program criteria including the County's goals, objectives, and needs, and the organizational chart of individuals, furnishings, and equipment that shall occupy the Project.
- 2) To the extent practicable and reasonable, the Architect shall incorporate the County's requests into the documents for construction; however, the Architect is responsible solely to the County for the types of material incorporated into the construction, the size of the facilities constructed, and to design within the MACC.
- 3) A list (by manufacturer and model number) of special equipment (other than 110 volt, 60HZ, requiring less than 10 amps) that requires utility services, including, but not limited to, telecommunication equipment such as data transmission and computer lines that shall be designated by the County's Information Technology Division.

10. FURNISHINGS AND EQUIPMENT

The Architect shall provide dimensional, color finish, power, etc., information necessary to specify any moveable furnishings and equipment not included in the project. Dimensional furniture plans shall incorporate and coordinate the requirements for electrical, communications, and data based on use and equipment, as well as the location of HVAC control devices and access panels. The Architect shall be compensated with Additional Services for any design and specification related to movable furnishings, fixtures and equipment requested by the County beyond that described above, provided that the Architect is not obligated to perform, furnish or incur such services as part of Basic Services.

11. TELECOMMUNICATIONS EQUIPMENT

Telecommunications and/or radio equipment for County facilities generally falls under the jurisdiction of the County's Information Technology Division. The County will instruct the Architect when and/or where outlets, conduits, wiring, etc., are to be included in the Project. The Architect shall coordinate with utility companies and other agencies.

12. SOFTWARE REQUIREMENTS

- A. Drawing Formats. All CAD drawings shall be supplied in PDF format as well as in DWG format and be readable by the County-supported CAD desktop software (Autodesk AutoCAD). "Readable" means the ability to open a file without any errors (such as proxy, font substitution, etc.) and with objects, layers, and other file properties remaining intact.

- B. Other formats. File formats for word processor documents, spreadsheet documents, or slide presentations shall be those used by the Microsoft family of office software such as Word, Excel, and PowerPoint. Contact the County for the version. Macros may be included with these documents provided they are virus free, their function is explained next to the Code, and they are not write protected.
- C. Graphics shall be submitted in TIF, GIF, JPG, CALS or PDF file format (compressed image formats only). This option is intended for photos, conceptual sketches, etc., and not to indicate that raster file drawings will be accepted in place of AutoCAD DWG files.
- D. Data file formats for projects that employ information contained in a database or spreadsheet shall be those used by one of the following: Oracle, Microsoft Access, Microsoft SQL, or Microsoft Excel. All linkages of non-graphical data with graphic elements, relationships between database tables, and report format shall be maintained. All database tables shall conform to the structure and field naming guidance provided by the County. The Architect shall conform database file format preference with the County prior to issuance of database files.
- E. File formats for project management documents shall be either that used by Microsoft Project or hard copy. Confirm file format with County. Save project files with baseline.
- F. Deliverables integrating multiple file formats may be submitted as a PDF (version 4 or later) in addition to the base file structure. Examples include reports, photographs, and manuals created by using a variety of software packages and file formats. Confirm deliverable format preference with the County.
- G. Building Information Modeling (BIM). Projects and project teams are encouraged to utilize 3D object model and other building information model technology and software applications (including during project stages of planning, design, construction, and handover to space management and facility operations and maintenance). Outputs from these applications are acceptable as deliverables to the County, provided that 2D output is also submitted that fully complies with all provisions herein.

13. KEY PERSONNEL AND CONSULTANTS

The Architect's key personnel and consultants designated for this Project shall remain assigned for the duration of the Project. Any substitutions of the Architect's key personnel and consultants require written notification to the County and prior written consent of the County.

The County may require substitution of any personnel or consultants provided that the County has first notified the Architect in writing and allowed a reasonable period for adjustments and/or corrections.

14. GEOTECHNICAL ENGINEERING

The Architect shall, during the Schematic Design Phase, submit to the County a statement of necessary geotechnical or soils engineering services that will be required. If the Architect does not believe the services of a Geotechnical Engineer are required for the project, a written notice of such shall be provided to the County stating same. Geotechnical engineering and any necessary surveys shall be County-provided, as Additional Services or a reimbursable expense.

15. CIVIL ENGINEERING

The Architect shall, during the Schematic Design Phase, submit to the County a statement of need and extent of civil engineering required for the project to protect new and existing structures on or around the site from adverse conditions. Extensive civil engineering, or civil engineering work outside of the immediate site proposed for the project, shall be Additional Services or a reimbursable expense.

16. STANDARD OF CARE

The Architect represents that its officers, agents, employees and consulting professionals shall possess the experience, knowledge, and character necessary to qualify them individually for the services to be performed by them under this Agreement. All services shall be performed in accordance with the standards of their respective profession. Such affirmation by consultants, sub consultants, joint ventures, and agents shall not be construed as a diminution of the Architect's liability and responsibilities to the County.

17. APPLICATION OF PROFESSIONAL SEALS

Final technical reports and all bidding documents shall contain a legible seal, signature, date and license expiration date of the design professional responsible for the document or under whose supervision the document was prepared. For project manuals and technical reports the seal shall be provided by the design professional responsible for the overall coordination of the project. If more than one design professional has responsibility for portions of the work, additional seals may be provided on the cover, or on a separate signature sheet immediately following the table of contents.

18. REVIEW PROCESS

The Architect shall submit documents for review as required by the Agreement. The Architect shall provide five (5) sets of review documents to the County for each review. Following the reviews, the Architect shall respond to the County's Project Manager in writing to all review

comments and questions within fourteen (14) calendar days.

19. SITE

The physical location on which the Project is built, including all land acquired for the Project or associated with the Project, including surface drainage, wells, transmission lines, easements, rights-of-ways, roadway and existing facilities that may be directly or indirectly affected by the Project or that might affect the Project.

20. TIME

The Architect shall perform Basic and Additional Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. The Architect shall submit, for the County's approval and as part of this Agreement, a schedule of performance of the Architect's services and shall include allowances for periods of time required for the County's review and approval of submissions and for approvals of authorities having jurisdiction over the Project. This schedule, when approved by the County, shall not, except for reasonable cause not within the control of the Architect, be exceeded by the Architect (see Exhibit A, Compensation and Schedule. Failure of the Architect to perform within this schedule except through authorized extensions shall constitute a basis for termination and/or withholding of payment until schedule compliance is achieved by the Architect.

21. REIMBURSABLES

Reimbursable expenses are those in addition to Basic Services compensation and are the actual, incidental expenditures made by the Architect or its employees in the interest of the Project. The Architect shall incur no expenses for which the Architect is entitled reimbursement until the County gives written approval. Reimbursable expenses shall include, but not limited to, the following:

- A. Expenses of transportation when traveling in connection with the Project. Such expenses are limited to per diem and mileage rates are set forth in the Per Diem and Mileage Act, Section 10-8-1 to 10-8-8, NMSA 1978 and DFA Rule 95-1 as amended, except that the County shall authorize such travel in advance.
- B. Expenses of fees paid for securing approvals of authorities having jurisdiction over the Project.
- C. The Architect shall charge Bidders or Offerors a deposit fee equal to the full cost of reproduction of drawings, specifications, and other documents required by the County to solicit bids or proposals and execute the Construction Contract. This fee shall be completely refunded if the documents are returned in usable condition within the time frame specified in the Invitation for Bid or Request for Proposals. All forfeited fees shall be returned to the County.

- D. Construction documents and specifications will be printed by the lowest quote received from print rooms specified by the County. All reproduction required must be approved in writing by the County prior to request. This expense shall be paid by the County for the initial Bidding and by the Architect for subsequent Biddings. All other reproductions as may be required for the County's review or for the office use of the Architect and the Architect's consultants shall be provided as part of the Architect's Basic Compensation.
- E. Reimbursable expenses, if allowed by this Agreement, shall be compensated at direct cost not to exceed the reimbursable amounts as indicated in Exhibit A of this Agreement, unless otherwise modified by written amendment.

22. OWNER'S RESPONSIBILITIES

- A. The County may designate, in writing, a representative authorized to act in its behalf, however, authority for final approval of the Project Phase Documents, the Contract Documents, or any Change Order is retained by the County. The County shall examine documents submitted by the Architect and shall render decisions promptly to avoid unreasonable delay in the progress of the Architect's services.
- B. The County may designate a Project Manager for the project who shall be the County's primary representative in the administration of this Agreement. The Architect will report to the County's Project Manager. All correspondence from the Architect shall be communicated to the Project Manager.
- C. The County shall ensure review in writing of each project phase and shall notify the Architect of the accord.
- D. The County shall furnish a legal description and certified land survey of the site, giving, as applicable grades and lines of streets, alleys, pavements, and adjoining property; rights-of-ways, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site; locations, dimensions, and complete data pertaining to existing buildings, other improvements, and trees, and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths.
- E. When documents and drawings provided under the above subparagraph are furnished to the Architect, payment of the Construction Document Phase will not be made to the Architect until the County has received all said documents and drawings.
- F. The County reserves the right not to provide certain project-related documents or drawings to the Architect at the County's discretion.

- G. If the County observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the County to the Architect.
- H. The County shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and of the Work.

23. RESPONSIBILITY FOR CONSTRUCTION COST

- A. When the detailed statement of probable construction cost required by subparagraph 5.D.11) or an evaluation prepared by the Architect indicates that the Project exceeds the MACC, the provisions outlined below shall apply:
 - 1) Evaluations of the County's Project budget, statements of probable construction cost, and detailed estimates of construction cost prepared by the Architect represents the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that the Architect does not have control over the cost of labor, materials, or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project budget proposed, established, or approved by the County, or from any Statement of Probable Construction Cost or other cost estimate or evaluation prepared by the Architect.
 - 2) The MACC may be adjusted by the County at the completion of the Programming Phase, and the design fees shall be modified. The MACC, at the start of the Schematic Design Phase, may only be adjusted based upon modifications to the Scope of Work approved in advance by the County. The Architect shall notify the County in writing at any time the estimated cost of construction is expected to exceed the MACC. The Architect's written notification shall include a detailed explanation and shall provide suggestions for reducing the estimated cost so that it does not exceed the MACC. The County agrees to cooperate with the Architect and permit reasonable and necessary revisions or reductions to the scope of the Project. The Architect agrees to revise the drawings and specifications as necessary at no additional expense to the County, if so requested by the County, in order to bring the estimated cost within the MACC;
 - 3) The MACC is established, as a condition of this Agreement, as a fixed limit of Construction Cost for design and bidding purposes. The Architect shall be permitted to determine what materials, equipment, component systems, and types of construction are to be included in the Bidding or Proposal

Documents to bring Construction Cost within the MACC. With the written consent of the County, the Architect may also include in the Bidding or Proposal Document either additive or deductive alternate bids or proposals to adjust the Construction Cost to the fixed limit;

- 4) If bidding or negotiations with potential Contractors have not commenced within two months after the Architect submits Bidding or Proposal Documents to the County, the Project budget and/or MACC shall be adjusted to reflect any change in the general level of prices in the construction industry between the date of submission of the Bidding or Proposal Documents to the County and the date on which proposals are sought;
- 5) The MACC, therefore, is established as a condition of this Agreement. When it is exceeded by the lowest bona fide bid, the County may:
 - a. Give written approval of an increase on the MACC, or
 - b. Authorize re-bidding the Project within a reasonable time, and
 - c. Cooperate with the Architect in revising the Project Scope and, as required, to reduce the Probable Construction Costs.

If the County elects to reduce the Probable Construction Cost, the County shall cooperate with the Architect in revising the quality and scope of the Project; and the Architect, without additional charge for services or re-printing of the Drawings and Specifications shall modify the Drawings and Specifications as necessary to bring the Construction Cost within the MACC. The Architect shall then assist the County through the Bidding process (see Subparagraph 5.E).

24. ARCHITECT'S RECORDS AND AUDIT

- A. Records of expenses by the Architect and its consultants pertaining to all services under this Agreement shall be kept on the basis of generally accepted accounting principles and shall be available at mutually convenient times to the County or the County's authorized representative;
- B. The County shall have the right to audit all such records and billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments;
- C. Records of expenses shall be kept by the Architect and its consultants and shall be available to the County until all applicable Statutes of Limitations have run, and this

provision shall survive and continue beyond the termination of other terms of this Agreement;

- D. These records shall be subject to inspection by the County and shall be maintained for inspection for a period of three (3) years. Billings may be audited both before and after payment; and payment by the County under this Agreement and shall not foreclose the right of the County to recover excessive or illegal payments.

25. OWNERSHIP AND USE OF DOCUMENTS

- A. Original construction document drawings, designs, specifications, notes, project manuals, and/or related documents and other work developed in the performance of this Agreement by the Architect shall become the sole property of the County whether the Project for which they are made is constructed or not, pursuant to Section 13-1-123, NMSA 1978. The County shall keep these documents on file. The Architect may maintain a complete reproducible set of any and all record documents developed under this Agreement;
- B. All documents, including drawings and specifications prepared by the Architect pursuant to this Agreement are instruments of service in respect to the Project. The Architect shall not be liable should the County use the documents, in whole or in part, in the future when the Architect's services are not retained;
- C. The original drawings may be marked by the County or the Architect to designate the restrictions of use of these documents as set forth in the subparagraph 13.B;
- D. Copyright: No reports, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Architect.

26. MAINTENANCE

Ease of maintenance and the ability to repair major items of installed equipment by replacement are essential to the Project. To ensure that these services can be adequately performed after the Project is accepted by the County, the Architect shall:

- A. In all relevant Contract Documents, design and provide for all major installed equipment in the Project, including but not limited to, removal, access, maintenance, and storage space needs. In addition, all installed equipment systems shall be appropriately identified and labeled to describe the capacities, flows, and other pertinent information related to their maintenance and safe operation;
- B. Specify only equipment that can be readily maintained by the County or other qualified commercial repairman;

- C. Provide Construction Documents that accurately depict the installation of all major items of installed equipment and which provide reasonable detail on all other major systems to be installed;
- D. At the completion of the Schematic, Design Development, and Construction Documents Phases, brief the County on the rationale for the selection of the major mechanical and electrical systems to be specified in the Contract Documents, together with the probable life-cycle costs.

27. EXHIBITS

All exhibits, attachments, riders and addenda referred to in this Agreement, including but not limited to the exhibits referred to in this Agreement, as well as those listed below, are hereby incorporated into this Agreement by reference and made a part hereof as thought set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

Exhibit A	Compensation and Schedule
Exhibit B	Architect's Pay Request
Exhibit C	Amendment for Basic Services
Exhibit D	Amendment for Additional Services
Exhibit E	Listing of Consultants
Exhibit F	Amendment for Consultant Additional Services
Exhibit G	Construction Change Order
Exhibit H	Bidding Index

28. ATTACHMENTS LIST

Attachment 1	Project Assignment - Scope of Work and Project Schedule
Attachment 2	Authorization to Proceed
Attachment 3	Hourly Rate Fee Schedule (submitted by the Architect)

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Kathleen S. Holian, Chairperson
Santa Fe County Board of Commissioners

Date

ATTEST

Geraldine Salazar,
Santa Fe County Clerk

Date

APPROVED AS TO FORM

Stephen C. Ross
Stephen C. Ross
Santa Fe County Attorney

11/20/13
Date

FINANCE DEPARTMENT APPROVAL

Teresa C. Martinez
Finance Director

Date

CONTRACTOR

Signature

Date

Print Name

Title

Federal Identification Number: _____

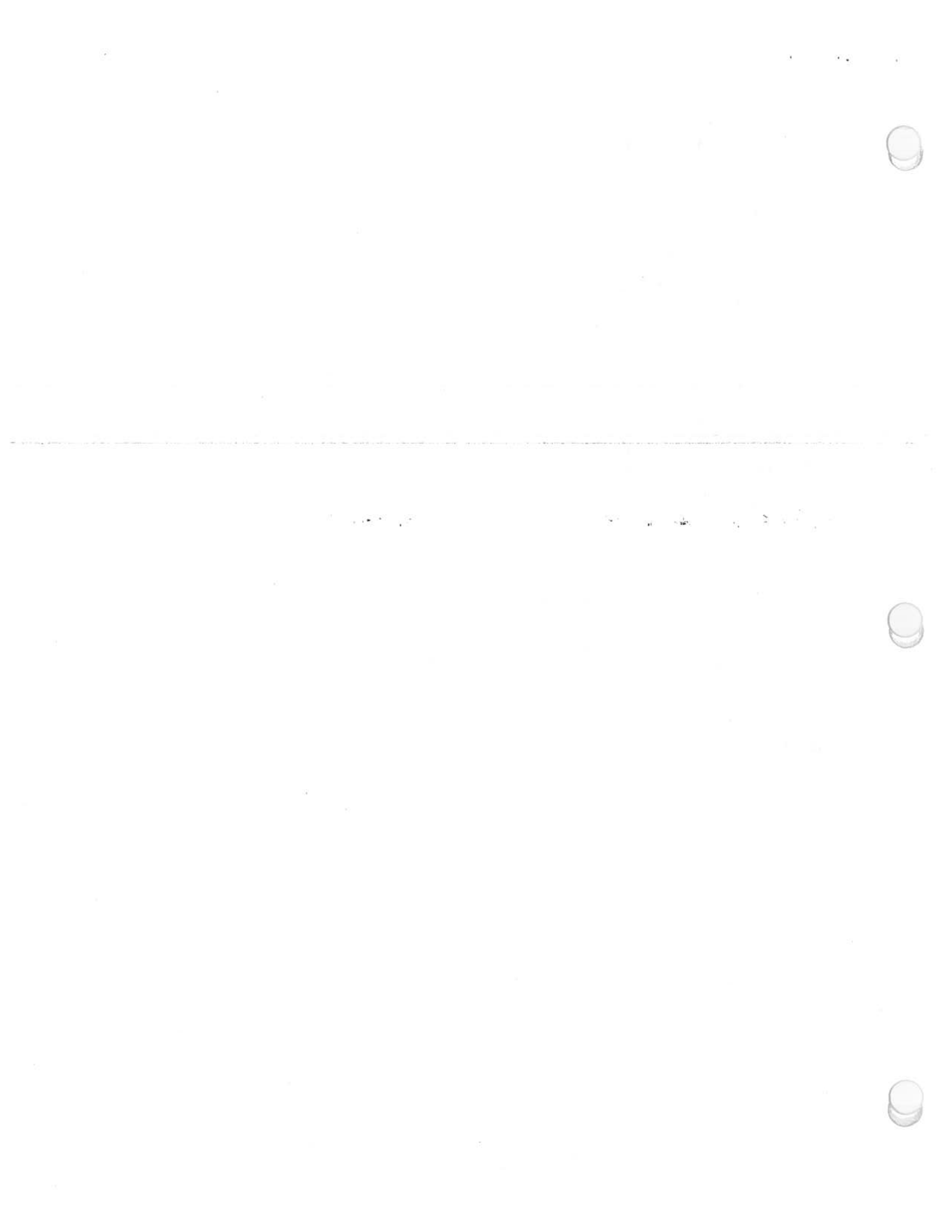


EXHIBIT A**COMPENSATION AND SCHEDULE**

Project Name: _____
 Project Number: _____
 Project Location: _____

BASIC SERVICES			Date to be completed
Programming Phase	10%	\$0.00	Date or Weeks
Schematic Phase	15%	\$0.00	Date or Weeks
Design Development Phase	20%	\$0.00	Date or Weeks
Construction Document Phase	25%	\$0.00	Date or Weeks
Bidding and Negotiations Phase	3%	\$0.00	Date or Weeks
Construction Phase	22%	\$0.00	Date or Weeks
Project Closeout	3%	\$0.00	Date or Weeks
11 Month Inspection Phase	2%	\$0.00	Date or Weeks
Total Basic Services Amount			
	100%	\$0.00	

REIMBURSABLES

LIST

\$0.00
\$0.00
\$0.00

Total Reimbursable Amount (Not to exceed)

ADDITIONAL SERVICES

LIST SERVICES

\$0.00
\$0.00
\$0.00

Total Additional Services Amount

\$0.00

CONSULTANT SERVICES

LIST SERVICES

\$0.00
\$0.00
\$0.00

Total Consultant Services Amount

\$0.00

TOTAL SERVICES AMOUNT

\$0.00

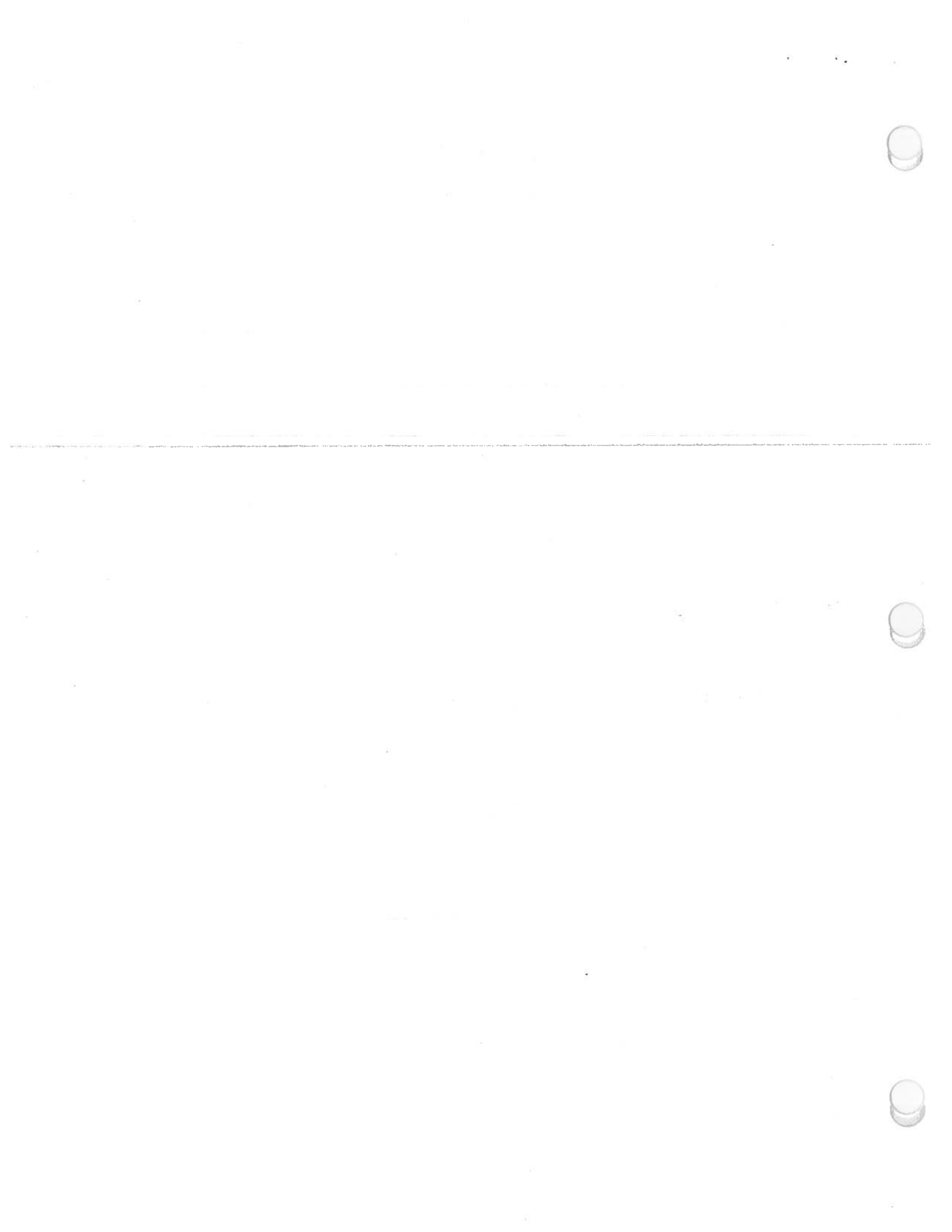


EXHIBIT B**ARCHITECT'S PAY REQUEST FORM**

Architect: _____ Pay Request Statement No. _____
 Date: _____ Project Number: _____
 Project Name: _____ Project Location: _____

Basic Services	Contract Sum	Percentage Completed	Completed to date	Less Previous Request	Current Request	Revision (SFC)
Programming Phase	\$	%	\$	\$	\$	
Schematic Phase	\$	%	\$	\$	\$	
Design Development Phase	\$	%	\$	\$	\$	
Construction Document Phase	\$	%	\$	\$	\$	
Bidding and Negotiation Phase	\$	%	\$	\$	\$	
Construction Phase	\$	%	\$	\$	\$	
Project Closeout	\$	%	\$	\$	\$	
11 Month Inspection Phase						
Subtotal						
CONTRACT CHANGES						
REIMBURSABLE *						
Type of Services	\$	%	\$	\$	\$	
Type of Services	\$	%	\$	\$	\$	
Type of Service	\$	%	\$	\$	\$	
Subtotal						
ADDITIONAL SERVICES **						
Type of Service	\$	%	\$	\$	\$	
Type of Service	\$	%	\$	\$	\$	
Type of Service	\$	%	\$	\$	\$	
Subtotal						
Total	\$	%	\$	\$	\$	



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EXHIBIT C**AMENDMENT TO AGREEMENT
BETWEEN SANTA FE COUNTY AND XXXXXXXXX
FOR PROFESSIONAL ARCHITECTURAL BASIC SERVICES**

In accordance with Part A Paragraph 5 Architect's BASIC SERVICES and Part B. Paragraph 1, SCOPE OF WORK, where applicable, to the Agreement Between the County and Architect, the Architect is authorized to provide the following Basic Services (scope of work and maximum compensation).

PROJECT NAME: _____

PROJECT NUMBER: _____

PROJECT LOCATION: _____

LIST SERVICES:

- 1.
- 2.
- 3.
- 4.
- 5.

Justification for Basic Services (Required):

Basic Services Compensation Amount	\$0.00
Reimbursable Amount (If Applicable)	\$0.00
Additional Services Amount	\$0.00
Consultation Services Amount (If Applicable)	\$0.00

Total	\$0.00
--------------	---------------

SIGNATURE PAGE

SANTA FE COUNTY

Katherine Miller
Santa Fe County Manager

Date: _____

Approved as to Form

Stephen C. Ross
Santa Fe County Attorney

Date: _____

Finance Department Approval

Teresa C. Martinez
Finance Director

Date: _____

ARCHITECT

Signature

Date: _____

Print Name

EXHIBIT D**AMENDMENT TO AGREEMENT
BETWEEN SANTA FE COUNTY AND XXXXXXXX
FOR PROFESSIONAL ARCHITECTURAL ADDITIONAL SERVICES**

In accordance with Part A Paragraph 7 Architect's ADDITIONAL SERVICES and Part B. Paragraph 1, SCOPE OF WORK, where applicable, to the Agreement Between the County and Architect, the Architect is authorized to provide the following Additional Services (scope of work and maximum compensation).

PROJECT NAME: _____

PROJECT NUMBER: _____

PROJECT LOCATION: _____

LIST SERVICES:

- 1.
- 2.
- 3.
- 4.
- 5.

Justification for Basic Services (Required):

Basic Services Compensation Amount	\$0.00
Reimbursable Amount (If Applicable)	\$0.00
Additional Services Amount	\$0.00
Consultation Services Amount (If Applicable)	\$0.00

Total **\$0.00**

SIGNATURE PAGE

SANTA FE COUNTY

Katherine Miller
Santa Fe County Manager

Date: _____

Approved as to Form

Stephen C. Ross
Santa Fe County Attorney

Date: _____

Finance Department Approval

Teresa C. Martinez
Finance Director

Date: _____

ARCHITECT

Signature

Date: _____

Print Name

EXHIBIT E**LISTING OF CONSULTANTS**

PROJECT NAME: _____ PROJECT NO: _____

<i>CIVIL:</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>ELECTRICAL</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:
<i>LANDSCAPING</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>ESTIMATING</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:
<i>STRUCTURAL</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>OTHER</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:
<i>MECHANICAL</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>OTHER</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:

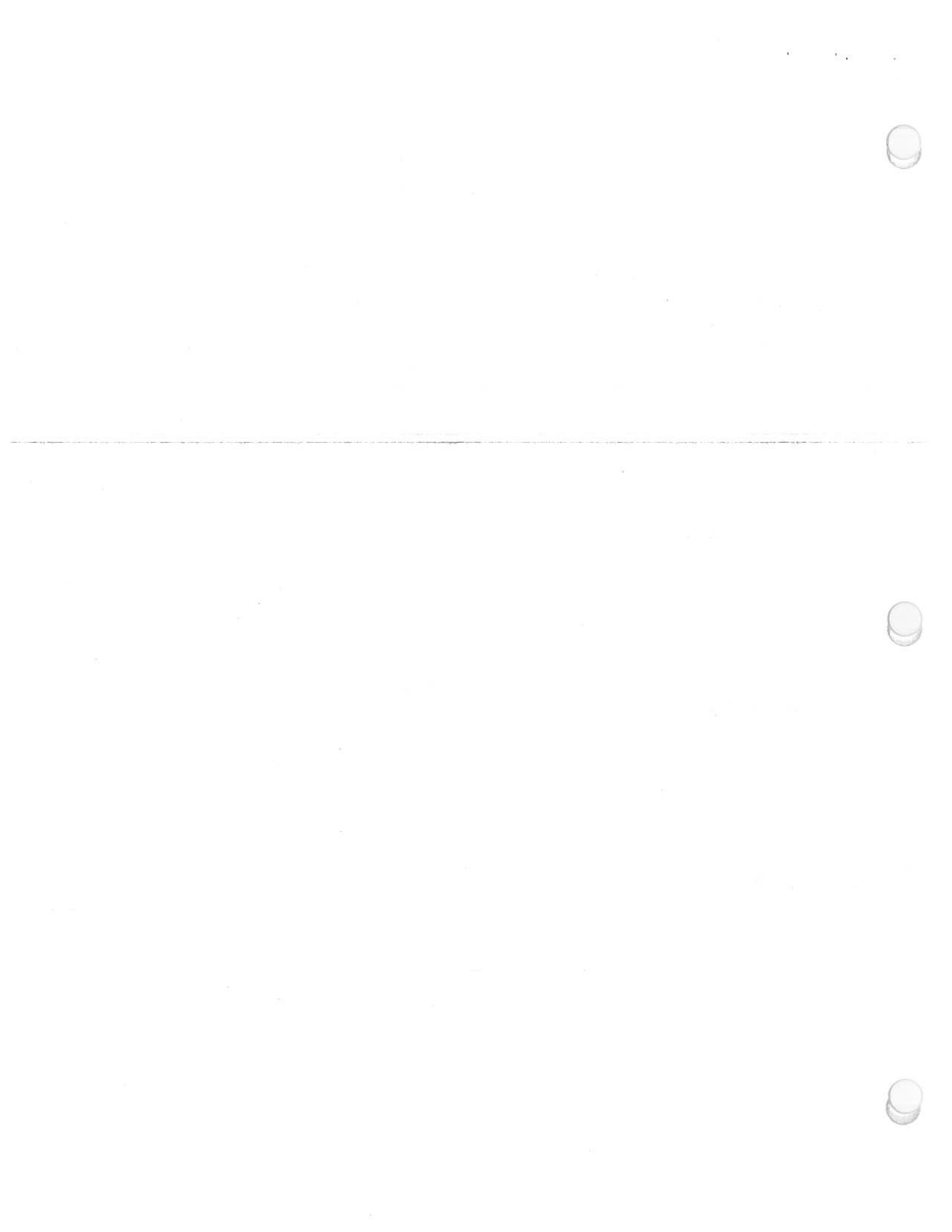


EXHIBIT F**AMENDMENT TO AGREEMENT
BETWEEN SANTA FE COUNTY AND XXXXXXXXX
FOR CONSULTANT ADDITIONAL SERVICES**

In accordance with Part B Paragraph 3 Architect's ADDITIONAL SERVICES, where applicable, to the Agreement Between the County and Architect, the Consultant is authorized to provide the following Additional Services (scope of work and maximum compensation).

PROJECT NAME: _____

PROJECT NUMBER: _____

PROJECT LOCATION: _____

LIST SERVICES:

- 1.
- 2.
- 3.
- 4.
- 5.

Justification for Basic Services (Required):

Basic Services Compensation Amount	\$0.00
Reimbursable Amount (If Applicable)	\$0.00
Additional Services Amount	\$0.00
Consultation Services Amount (If Applicable)	\$0.00

Total	\$0.00
--------------	---------------

SIGNATURE PAGE

SANTA FE COUNTY

Katherine Miller
Santa Fe County Manager

Date: _____

Approved as to Form

Stephen C. Ross
Santa Fe County Attorney

Date: _____

Finance Department Approval

Teresa C. Martinez
Finance Director

Date: _____

ARCHITECT

Signature

Date: _____

Print Name

EXHIBIT G***SANTA FE COUNTY*****CHANGE ORDER**

DISTRIBUTED TO: OWNER ☐ CONTRACTOR ☐ FIELD ☐
 ARCHITECT ☐ SUBCONTRACTOR ☐ OTHER ☐

PROJECT:
 CONTRACTOR:

CHANGE ORDER NUMBER:
 DATE:
 PROJECT NUMBER:
 CONTRACT DATE:
 CONTRACT FOR:

THIS CONTRACT IS CHANGED AS FOLLOWS:

#	COST	DESCRIPTION
1		
2		
3		
4		
5		

The original contract sum: \$
 Net change by previous Change Orders: \$
 Contract Sum prior to this Change Order: \$
 Contract Sum will be increased by this Change Order in the amount of: \$
 New Contract sum including this Change Order will be: \$
 The Contract Time will be increased by () days.
 The date of Substantial Completion as of the date of this Change Order is:

GROSS RECEIPTS TAX (GRT) IS NOT ADDED TO THIS CHANGE ORDER

ACCEPTED BY:**ARCHITECT****CONTRACTOR****OWNER**

By: _____

By: _____

By: _____

Date: _____

Date: _____

Date: _____

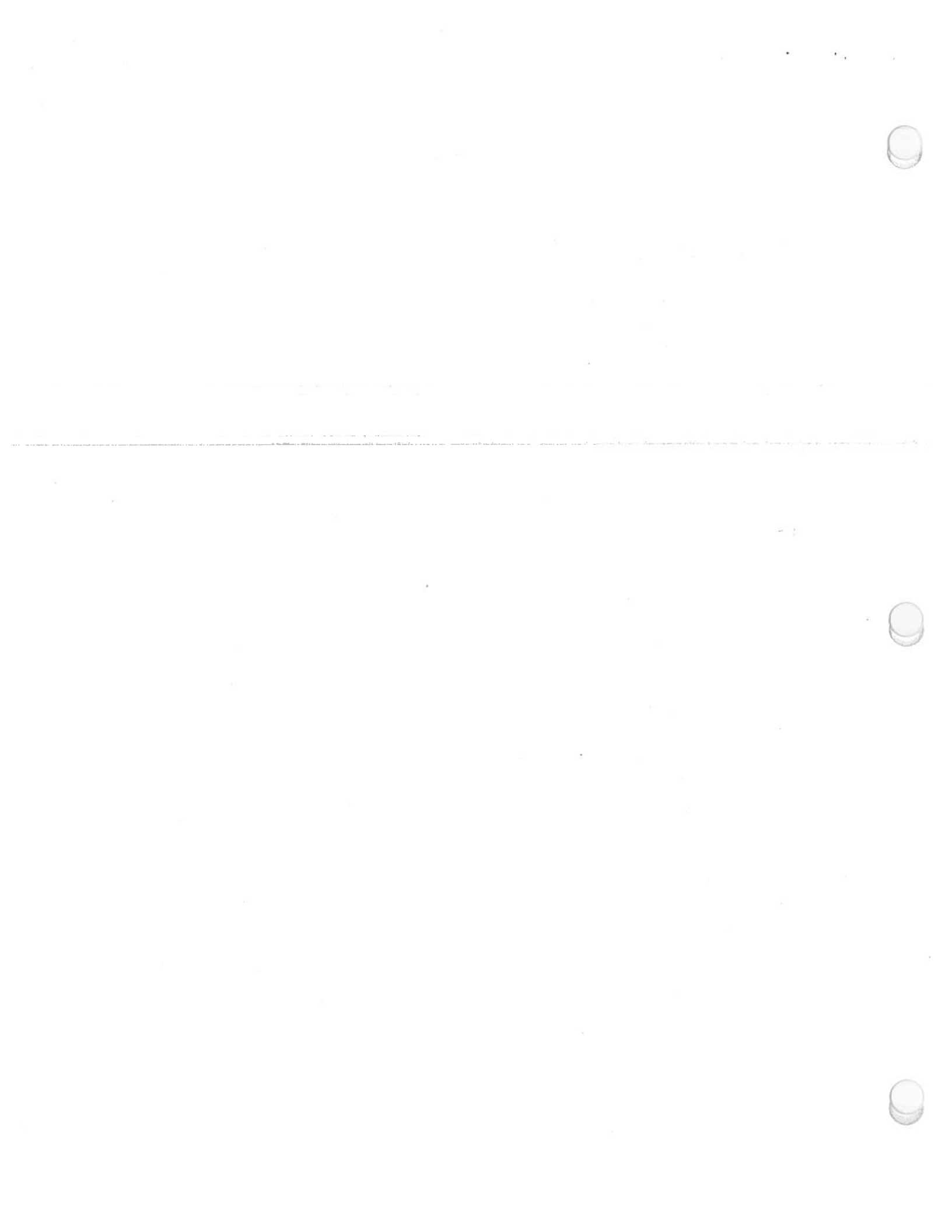


EXHIBIT H

INDEX TO BIDDING

TITLE	PAGES
Invitation for Bid Advertisement	00 1000-1
Definitions	00 2000-1-2
 INSTRUCTION TO BIDDERS	 00-3000
Location and Description of Work	00 3000-1
Time and Place of Receiving and Opening Bids	00 3000-1
Specifications	00 3000-1
Contract Time	00 3000-1
Copies of Bidding Documents	00 3000-1
Bidder's Representation	00 3000-2
The Complete Contract Documents Contain the Following	00 3000-2
Interpretations/Addenda	00 3000-2
Preference in Procurement	00 3000-2
Subcontractors, Suppliers and Others	00 3000-4
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Wage Rates/Registration with the Labor and Industrial Division	00 3000-4
Bid Form	00 3000-4
Bid Security	00 3000-5
Power of Attorney	00 3000-5
Qualifications of Bids	00 3000-5
Submissions of Bids	00 3000-5
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Contractor's Qualification Statement	00 3000-8
Bond Requirements –Performance and Payment Bonds	00 3000-8
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Clarification of Non-Collusion Affidavit of Subcontractor, and Certification of Subcontractor Regarding Equal Employment Opportunity	00 3000-9
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Bid Sheet	00 4000-5
CONTRACT FORMS, BONDS, AND CERTIFICATES	00 50000
Non-Collusion Affidavit of Prime Bidder	00 5000-1
Non-Collusion Affidavit of Subcontractor	00 5000-2
Certification of Non-Segregated Facilities	00 5000-4
Certification of Bidder Regarding Equal Employment Opportunity	00 5000-5
Certification of Subcontractor Regarding Equal Employment Opportunity	00 5000-6
Bid Bond	00 5000-7
Subcontractor Listing	00 5000-8
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B. Campaign Contribution Disclosure Form	
C. Resident Veterans Preference Certification	

ATTACHMENT 1

PROJECT ASSIGNMENT SCOPE OF WORK AND PROJECT SCHEDULE

Project Name: _____
Project Number: _____
Project Location: _____
Project MACC: _____

SCOPE OF WORK

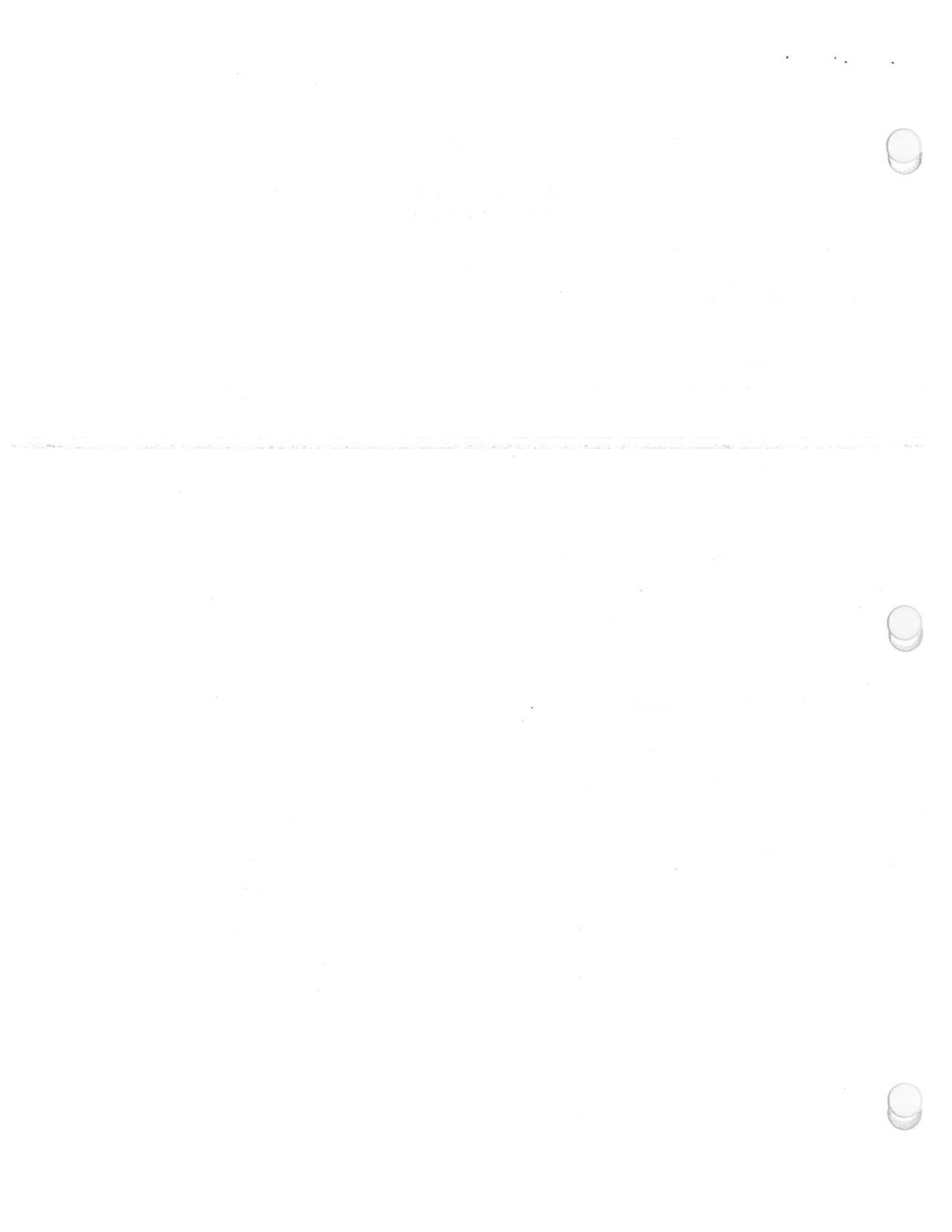
A. **Basic Services:** The project includes architectural design and related services to include: (Insert Scope of Work)

B. **Additional Services:** Additional Services include, (List Services):

C. Project Schedule

BASIC SERVICES		COMPLETION DATE
Programming Phase	10%	Date or Weeks*
Schematic Phase	15%	Date or Weeks
Design Development Phase	20%	Date or Weeks
Construction Document Phase	25%	Date or Weeks
Bidding and Negotiation Phase	3%	Date or Weeks
Construction Phase	22%	Date or Weeks
Project Closeout	3%	Date or Weeks
11 Month Inspection Phase	2%	Date or Weeks

*In lieu of dates duration in weeks may be substituted.



ATTACHMENT 2
AUTHORIZATION TO PROCEED
(SAMPLE)

Date: _____

To: _____

RE: Authorization to Proceed – (Insert Project Name/Number/Location

Dear _____:

As project manager for this project, I am pleased to inform you that (insert architect) has been chosen to provide the architectural services for (insert project). This letter will serve as your Authorization to Proceed with the architectural services for this project. The County would like to schedule a meeting prior to the commencement of services at (insert location). Please contact me to schedule a mutually acceptable date and time. A copy of the purchase order (# ____) is attached for your records. Please ensure that all invoices or requests for payments contain this PO number for reference.

If you have any questions, you can contact me at (insert phone number) or by email at (insert email address).

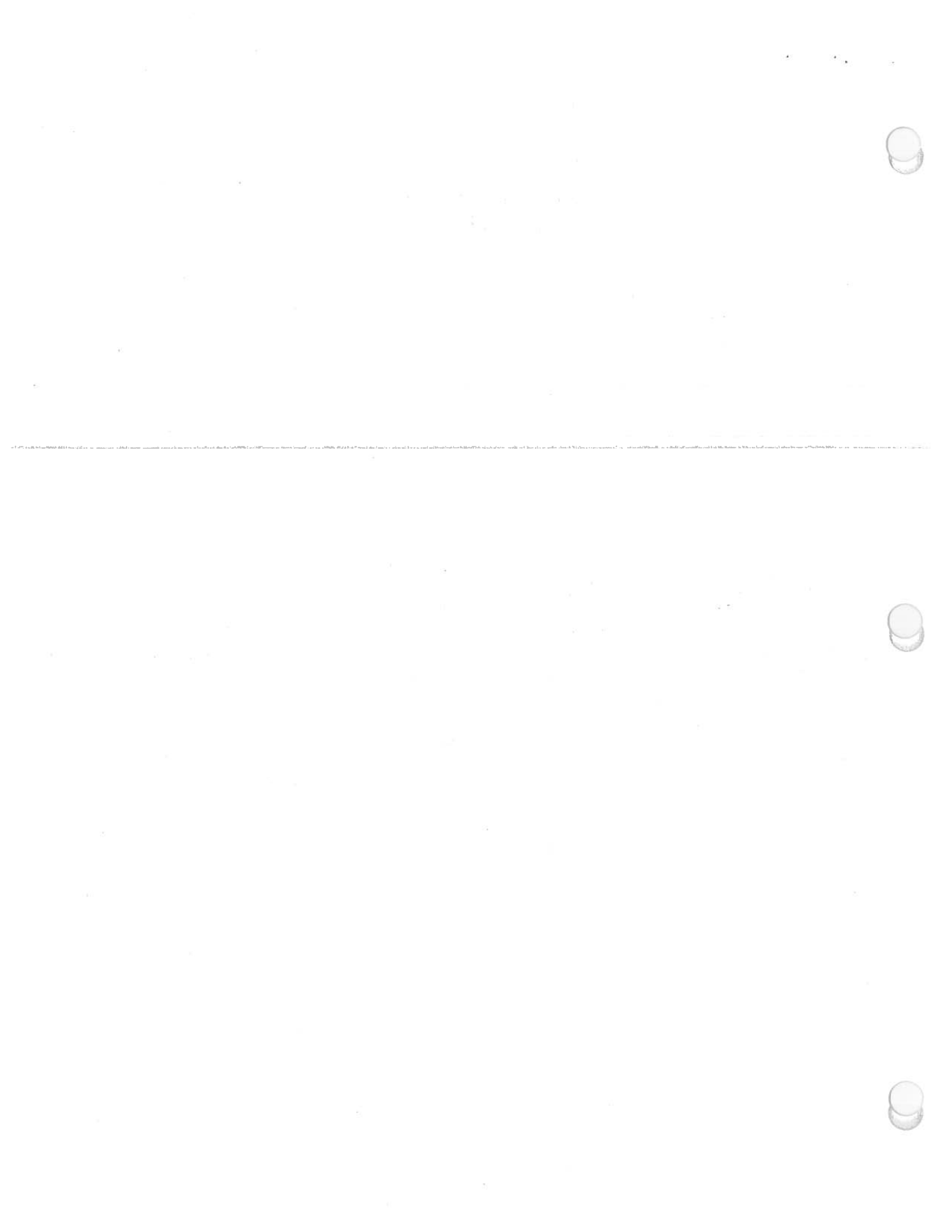
On behalf of Santa Fe County, I would like to thank you for your participation in this solicitation and look forward to working with you and your company on this important County project.

Sincerely,

(Insert Name/Title)

(Insert Department)

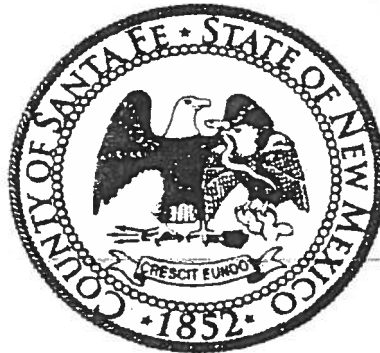
Santa Fe County



ATTACHMENT 3
ARCHITECT
HOURLY RATE FEE SCHEDULE



**GENERAL TERMS AND CONDITIONS OF THE AGREEMENT
BETWEEN SANTA FE COUNTY
AND ARCHITECT
FOR PROFESSIONAL ARCHITECTURAL SERVICES**



**SANTA FE COUNTY
ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING DIVISION**

2013 EDITION, PART B of Two Parts

Changes, additions, deletions and/or any modifications other than those agreed upon execution of this contract, without the written consent of Santa Fe County shall render this document null and void.

1. SCOPE OF WORK

Architect shall provide the services set forth in Part A Section 2 (Scope of Work) of this Agreement and as provided in Exhibit A.

2. EFFECTIVE DATE AND TERM

The Agreement shall, upon due execution by all parties, become effective as of the date first written in Part A and shall terminate one (1) year later with an option to renew an additional three (3) years, for a total of no more than four (4) years, unless earlier terminated pursuant to Section 4 (Termination) or Section 5 (Appropriations and Authorizations) of these General Terms and Conditions.

3. ADDITIONAL SERVICES

- A. The parties agree that all tasks set forth in Section 1, (Scope of Work) above and Section 5 (Basic Services) of Part A of the Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 4 (Compensation,

Invoicing, and Set-Off) of Part A of this Agreement, and for no other cost, amount, fee, or expense.

- B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Architect, shall be incorporated in written amendments to this Agreement.

4. TERMINATION

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised then non-breaching party in writing that it intended to cure.
- B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Architect written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Architect's receipt of the notice. The County shall pay the Architect for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work or service performed after the effective date of termination.
- C. In the event of termination, all finished or unfinished documents, data, sketches, calculations, estimates, records, schedules, studies, drawings, maps, models, photographs, reports, and such other information and data accumulated in the performance of services under this Agreement, whether complete or in progress, prepared by the Architect under this Agreement shall become the County's property, and the Architect shall be entitled to receive compensation for actual work satisfactorily completed hereunder, including reimbursable expenses authorized by the County which are then due.

5. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Santa Fe Board of County Commissioners and/or, if state

funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Architect. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Architect for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Architect in any way or forum, including a lawsuit.

6. INDEPENDENT CONTRACTOR, SUBCONTRACTING AND PERSONNEL

- A. Independent Contractor. The Architect and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Architect and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Architect has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.
- B. Subcontracting. The Architect shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.
- C. Personnel.
 - 1) All work performed under this Agreement shall be performed by the Architect or under its supervision.
 - 2) The Architect represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

7. ASSIGNMENT

The Architect shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without County's advance written approval shall be null and void and without any legal effect.

8. RELEASE

Upon its receipt of all payments due under this Agreement, Architect releases County, its Elected Officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

9. CONFIDENTIALITY

Any confidential information provided to or developed by the Architect in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Architect without prior approval from the County.

10. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT

County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement. To the extent any material is copyrightable; the County shall own such copyright.

11. CONFLICT OF INTEREST

Architect represents that it has no and shall not require any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under the Agreement.

12. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

The Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Architect specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 2 (Scope of Work), Part A of the Agreement unless such changes are set forth in a duly executed written amendment to the Agreement.

13. ENTIRE AGREEMENT; INTEGRATION

The Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into the written Agreement. No prior or contemporaneous agreement, covenant or understandings verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

14. EXHIBITS AND ATTACHMENTS: INCORPORATION BY REFERENCE

All exhibits, attachments, riders, and addenda referred to in the Agreement, including but not limited to the Exhibits referred to in this Agreement, as listed in Paragraph 27 EXHIBITS and Paragraph 28 ATTACHMENTS, in Part A of this Agreement, are hereby incorporated into this

Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

15. NOTICE OF PENALTIES

The Procurement Code, Section 13-1-28 through 13-1-199 NMSA 1978 imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

16. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

- A. Architect agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, Architect specifically agrees not to discriminate against any person with regard to employment with Architect or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. Architect acknowledges and agrees that failure to comply with this Section shall constitute a material breach of the Agreement.

17. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

- A. In performing its obligations hereunder, Architect shall comply with all applicable laws, ordinances, and regulations.
- B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules.

18. RECORDS AND INSPECTIONS

- A. To the extent their books and records relate to (i) their performance of the Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in the Agreement or that was required to be submitted to County as part of the procurement process, Architect agrees to (i) maintain such books and records during the term of the Agreement for a period of six (6) years from the date of final payment under the Agreement; (ii) allow County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").
- B. To the extent their books and records relate to (i) their performance of the Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data

(if any) set forth in the Agreement or that was required to be submitted to County as part of the procurement process, Architect also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of the Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow county or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in with GAAP.

19. INDEMNIFICATION

- A. Architect shall indemnify and hold harmless County and its Elected Officials, agents, and employees from any losses, liabilities, damages, causes of action, costs or expenses including attorney's fees, attributable to bodily injury, sickness, disease, or death, or to injury to persons or property including loss of use, caused directly or indirectly by the negligent act or failure to act by Architect, or by Architect's officers, employees, consultants or anyone for whom the Architect is legally liable, or Architect's breach of any representation or warranty made herein.
- B. Architect agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Architect in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.
- C. Architect's obligations under this section shall not be limited by the provisions of any insurance policy Architect is required to maintain under this Agreement.

20. SEVERABILITY

If any term or condition of the Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of the Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

21. NOTICES

Any notice required to be given to either party by the Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Santa Fe County
Office of the County Attorney
102 Grant Avenue
Santa Fe, New Mexico 87501

To the Architect: Riskin Associates Architecture
227 East Palace Avenue
Suite C
Santa Fe, New Mexico 87501

22. ARCHITECT'S REPRESENTATIONS AND WARRANTIES

The Architect hereby represents and warrants that:

- A. This Agreement has been duly authorized by the Architect, the person executing this Agreement has authority to do so, and, once executed by the Architect, this Agreement shall constitute a binding obligation of the Architect.
- B. This Agreement and Architect's obligations hereunder do not conflict with Architect's corporate agreement or any statement filed with the Public Regulation Commission on Architect's behalf.
- C. Architect is legally registered and licensed to operate as a business in New Mexico and to do the work anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

23. LIMITATION OF LIABILITY

County's liability to Architect for any breach of this Agreement by County shall be limited to direct damages and shall not exceed the maximum amount of compensation specified in Section 4, (Compensation and Invoicing) Part A, of the Agreement. In no event shall County be liable to Architect for special or consequential damages, even if County was advised of the possibility of such damages prior to entering into the Agreement.

24. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party to the Agreement.

25. INSURANCE

- A. General Conditions. Engineer shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. Engineer shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy and liability limits in amounts not less than \$1,000,000 combined single limits of bodily injury, including death, and property damage for

any one occurrence. Said policies of insurance shall include coverage for all operations performed for County by Engineer; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off work; and contractual liability coverage under which this Agreement is an insured contract. Santa Fe County shall be named additional insured on the policy.

- C. Workers' Compensation Insurance. Engineer shall comply with the provisions of the Workers' Compensation Act.
- D. Malpractice/Errors and Omissions Insurance. Engineer shall procure and maintain during the life of this Agreement professional liability (errors and omissions) insurance with policy limits of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 per aggregate.
- E. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), Engineer shall increase the maximum limits of any insurance required herein.

26. PERMITS, FEES, AND LICENSES

Architect shall procure all permits and licenses, pay all charges, fees and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

27. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

28. NEW MEXICO TORT CLAIMS ACT

No provision of the Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees: at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

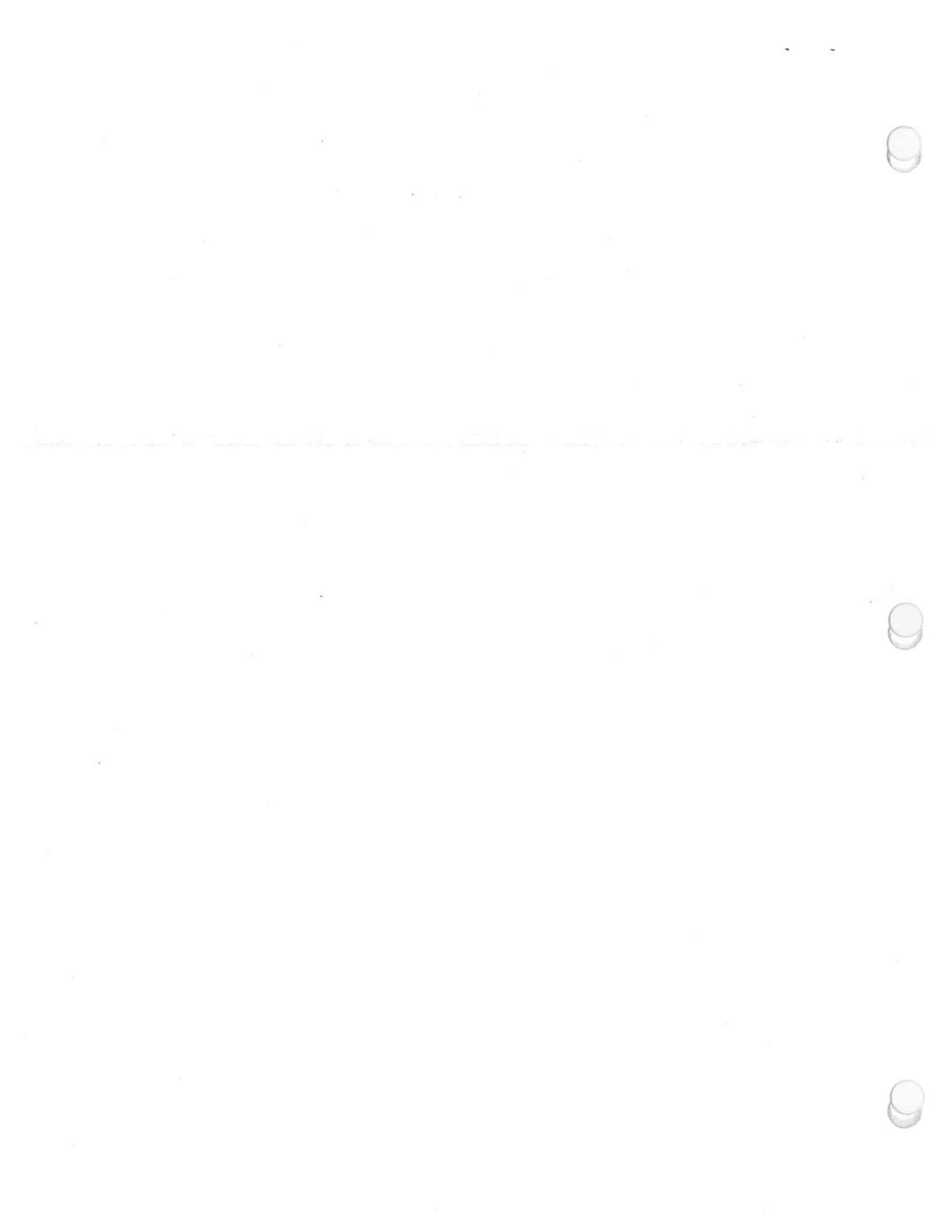
29. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Architect agrees to compute and submit simultaneous and execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

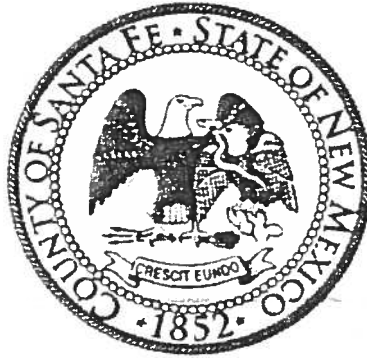
30. SURVIVAL

The provisions of following paragraphs shall survive termination of the Agreement:

INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.



AGREEMENT BETWEEN SANTA FE COUNTY AND ARCHITECT FOR PROFESSIONAL ARCHITECTURAL SERVICES



**SANTA FE COUNTY
ADMINISTRATIVE SERVICES DEPARTMENT**

PURCHASING DIVISION

2013 EDITION, Part A of Two Parts

Changes, additions, deletions and/or any modifications other than those agreed upon execution of this contract without the written consent of Santa Fe County shall render this document null and void.

THIS AGREEMENT is made and entered into on this ____ day of _____, 2013, by and between SANTA FE COUNTY (hereinafter referred to as the "County"), a New Mexico political subdivision, and LORN TRYK ARCHITECTS, P.C., an incorporated company licensed to do business in the State of New Mexico, (hereinafter referred to as the "Architect").

Hereinafter "County":

Santa Fe County
PO Box 276
102 Grant Avenue
Santa Fe, New Mexico 87504-0276
TELEPHONE: 505-986-6200

Hereinafter "Architect":

Lorn Tryk Architects, P.C.
206 McKenzie Street
Suite F-2
Santa Fe, New Mexico 87501
TELEPHONE: 505-982-5340

RECITALS

WHEREAS, Santa Fe County has identified a need for On-Call Architectural and Engineering Services to be provided on an "as-needed" basis for a variety of projects throughout the County as funding becomes available and as specific needs are identified;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112, competitive sealed proposals were solicited via a formal Request for Proposal, RFP No. 2014-0131-PW/PL for these services;

WHEREAS, Santa Fe County has selected multiple qualified and experienced architectural professionals to assist the County in a variety of building and renovation design projects pursuant to NMSA 1978, Section 13-1-154;

WHEREAS, based upon the evaluation criteria established within the request for proposals for the purpose of determining the most qualified Offerors, the County has determined the Architect as one of the most responsive and highest rated Offerors;

WHEREAS, the County requires the services of the Architect, and the Architect is willing to provide these services and both parties wish to enter into this Agreement.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. PROJECT DESCRIPTION

The Project is to provide on-call design and other related architectural services for a number of projects on an "as needed" basis determined by the County. The County, at its sole discretion, shall determine what projects are assigned to the Architect. During the term of the Agreement, Project Assignment (Attachment 1) that includes a detailed Scope of Work and Project Schedule will be issued to the Architect by the County. Upon receipt of a Project Assignment, the Architect will be required to submit Exhibit A, Compensation and Schedule form and Exhibit F, Consultant List, if acceptable to the County, the Architect will receive written Authorization to Proceed (Attachment 2).

2. SCOPE OF WORK

- A. The Scope of Work as determined by the County will be included at time of issuance of each written project assignment to the Architect.
- B. Architectural services may include, but not limited to, the following:

- 1) *Evaluation & Planning Services*

- Programming
- Functional relationships/flow diagrams
- Existing facilities surveys
- Conditions assessments
- Marketing studies
- Economic feasibility studies
- Project financing
- Site analysis, selection and development planning
- On-site and off-site utility studies
- Environmental studies and reports
- Zoning review

2) *Design Services*

- Code review
- Civil design
- Landscape design
- Architectural design
- Interior design
- Structural design
- Mechanical design
- Electrical design
- Solar design
- Leeds and sustainable design
- Materials research and specifications
- Cost Estimating
- Architectural renderings/models

3) *Bidding and Negotiation Services*

- Bidding documents
- Attendance pre-bid conference
- Addenda/responding to bidder inquiries
- Bidding/Negotiation
- Analysis of alternates and substitutions
- Bid evaluation

4) *Contract Administration Services*

- Submittal services
- Review of Pay Applications
- On-site inspection of work

- Testing and inspection administration
- Supplemental documentation
- Quotation requests/change orders
- Contract cost accounting
- Furniture & equipment installation administration
- Interpretations & decisions
- Project close-out

5) *Facility Administration Services*

- Maintenance and operational programming
- Startup assistance
- Record drawing
- Warranty review
- Post contract evaluation

3. BASIS FOR COMPENSATION

The fee for basic services generally is based on a percentage of the Maximum Allowable Construction Cost (MACC) as may be adjusted by building type, design complexity, and Scope of Work. The MACC for the purpose of calculating the fee for basic services is not adjusted at the time of construction contract award. If, at any time, the MACC and/or the percentage are changed by amendment to the Agreement, the basic services fee shall be adjusted as appropriate. No fee adjustment shall be made for phases already completed.

4. COMPENSATION, INVOICING, AND SET-OFF

- A. In consideration of its obligations under this Agreement the Architect shall be compensated as follows:
- B. County shall pay to the Architect in full payment for services satisfactorily performed and all costs and expenses shall be in accordance with Exhibit A Compensation and Schedule.
- 1) The total amount payable to the Architect under this Agreement shall not exceed Five Hundred Thousand Dollars (\$500,000.00) exclusive of gross receipts tax. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Architect;
 - 2) This amount is a maximum and not a guarantee that the work assigned to be performed by Architect under this Agreement shall equal the amount stated herein. The parties do not intend for the Architect to continue to provide services without compensation when the total compensation

amount is reached. The County will notify the Architect when the services provided under this Agreement reach the total compensation amount. In no event will the Architect be paid for services provided in excess of the total compensation amount without this Agreement being amended.

- C. The Architect shall submit a written request for payment, on the form attached hereto as Exhibit B Architect Pay Request Form, when payment is due under this Agreement within each phase of services. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. The Architect acknowledges and agrees that the County may not make any payment hereunder unless and until the County has issued a written certification accepting the contractual items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.
- D. In the event the Architect breaches this Agreement, the County may, without penalty, withhold any payments due the Architect for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.
- E. Payment under the Agreement shall not foreclose the right of the County to recover excessive or illegal payment.
- F. The Architect shall submit, with its billings at the completion of the Project, certification that payment has been made to all consultants, suppliers, and others for materials and services required by this Agreement.
- G. No deductions or withholdings shall be made from the Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to Contractors, or on account of the cost of changes in the Work other than those for which the Architect may be legally liable in accordance with this Agreement.
- H. In the event the County receives Notice from any person, Consultant, Sub consultant, or other third party, that the Architect has failed to pay such person(s) for Work performed in accordance with Agreements, the Architect shall, at the request of the County, and in no more than ten (10) calendar days, provide all documentation the County believes necessary to determine whether such payment is due, or reasons for non-payment of disputed amounts. In the event the County

determines the claim to be valid and payment is due, or in the absence of aforementioned documentation, the County may authorize direct payment of any unpaid bills, withholding from the Architect's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such claims until satisfactory documentation is furnished that all liabilities have been fully discharged or reasons for non-payment of disputed amounts are provided by the Architect. In no event shall these provisions be construed to impose any obligation upon the County to the Architect.

- I. In the event of termination or suspension of the Project due to the fault of parties other than the Architect, the Architect shall be compensated for services performed to the date of termination.

5. BASIC SERVICES

The Architect shall perform professional services including basic architectural, landscaping architecture, interior design, structural, mechanical, civil and electrical engineering services. The Architect shall represent that all tasks will be performed in accordance with generally acceptable professional standards and further represent that the advice and consultation provided shall be within the Architect's authority and capacity. The Architect shall comply with the regulations, laws, ordinances and requirements of all levels of government applicable to any assigned project.

The services to be provided during each phase listed herein includes all consulting services required by the Architect to provide the professional architectural and engineering services incidental to the design and construction of the Project. The intent of this Agreement is to design completely functional and operational facilities within the identified scope of work and cost limitation.

The Architect's Basic Services shall consist of the following:

- A. Programming Phase. This phase involves the collection of facts, identifying concepts, analyzing the site and determining the proper operational needs of the agency. Based on the data provided by the County and pursuant to consultation with the County, the Architect shall prepare a document that defines the scope of the project. The programming document shall reflect the limits of the maximum allowable construction costs (MACC) and provide an estimated duration for construction.
 - 1) The Architect shall include in the program document the results of site investigation and the field verification of any information provided by the County.
 - 2) The County shall work with the Architect to ensure that the information required by the County is made available to the Architect. This

information and other requests concerning organization of functions shall be provided in the form of a written memorandum.

- 3) The County shall schedule a meeting between the Architect and the County's Department representative to define the relationship among all parties. The Architect shall advise the County, in writing, of any information required which has not been provided by the County and/or any conflicts between the established program requirements, and the MACC.
- 4) The Architect shall obtain the approval of the County, in writing, of the Program Phase before commencing work on the Schematic Design Phase. The Architect shall provide written confirmation, to be transmitted with the Program Document to the County, that the Architect has visited the site, familiarized itself with the local conditions under which the work is to be performed, correlated its observations with current code requirements and life safety needs, and has a clear understanding of existing conditions for the Project.

B. Schematic Phase. Upon completion of the Programming Phase the Architect shall produce studies consisting of drawings and other documents necessary to illustrate the general planning concepts, probable architectural, engineering, and building systems, materials and preliminary alternatives, a breakdown of the budget on current area, volume, or other unit costs, and the approximate dimensions of the programmed areas. The number of iterations of such studies produced shall be sufficient to accomplish and demonstrate a design concept for the Project that is satisfactory to the County. The Architect shall incorporate in the Schematic Design Drawings and documents the provisions of Green Building Standards and current State-adopted Building Code and current ASHRAE 90.1 are incorporated herein by reference. Where applicable, the provisions of these documents shall apply. The Architect shall brief, and obtain the written approval from the County for the Schematic Design Drawing and documents. This review and approval shall include the life cycle costs. The Architect shall obtain the written approval of the County of one of the proposed design schemes, as modified by any comment during review, before commencing work on the Design Development Phase.

- 1) The Architect shall provide a feasibility report as part of this phase on the energy sources other than fossil fuels for the heating and air conditioning of the proposed building, if applicable.
- 2) The Architect shall request site survey data from the County.
- 3) The responsibility for bringing the Project within the MACC and

compliance with construction directives remains with the Architect. Should the Architect at any time conclude that the budget and the scope of the work to be accomplished are incompatible, the County shall be notified immediately in writing, with proposed recommendations to reconcile the incompatibility.

- C. Design Development Phase. Upon completion of the Schematic Phase, the Architect shall prepare the Design Development Documents consisting of drawings, outline specifications, and other documents to fix and describe the size and character of the entire project as to civil, structural, mechanical, plumbing, and electrical systems materials and such other design essentials as may be appropriate. Additionally, these documents shall identify design features, program modifications, the probable Project Schedule, equipment installed in the Project or furnishings required, and a statement that identifies the need for any additional data, surveys, or tests. The Architect shall provide sufficient, alternative design solutions on major design features to allow the County to ascertain that the recommended design achieves practical programmatic and economic solutions, within the limitations of the authorized program, schedule, and budget; include staffing and occupancy considerations provided by County. The Architect shall acquire the approval, in writing, of the County of all documents associated with the Design Development Phase before commencing work on the Construction Documents Phase.

- 1) The Architect shall submit to the County for review and written approval a refined statement of Probable Construction Cost at the completion of the Design Development Phase. Should the Architect conclude, at any time, that the budget and the scope of work to be accomplished are incompatible; the County shall be notified immediately in writing, with proposed recommendations to reconcile the incompatibility.
- 2) Should the County initiate or require a material change from the approved Design Development Documents and there is no fault or responsibility of the Architect related to the County's initiation or requirement of the change, the Architect's efforts implementing said change(s) shall be compensated as an Additional Service and the schedule of delivery of the Architect's services shall be equitably adjusted if/as appropriate.

- D. Construction Document Phase. Upon the completion of the Design Development Phase, the Architect shall prepare and complete the Construction Documents based upon information contained in the Design Development drawings and other documents approved by the County. These Construction Documents shall provide the detailed requirements for the construction of the entire project.

- 1) The Construction Documents shall include written and graphic elements

indicating contracting requirements, specifications and contract drawings. If Architect is to provide professional design services, layouts of equipment or certifications related to systems, materials or equipment that are not included in these Construction Documents, the Architect shall clearly define and identify such services and specify all performance and design criteria that such services must satisfy within the Construction Documents. The County or the Architect shall not be responsible for the adequacy of the performance or design criteria specified by the Architect and required by the Construction Documents.

- 2) In preparing the Construction Document, the Architect shall, as directed by the County, prepare the necessary bidding information, bidding forms, and the project manual, which shall include the Conditions of the Contract for Construction (general, supplementary, and other conditions of the contract), and the Standard Form of Agreement between County and Contractor. The Architect shall incorporate in the Invitation for Bid (IFB) documents the provisions for Index to Bidding as provided as Exhibit H.
- 3) The Invitation for Bid shall be prepared by the Architect as directed by the County, and shall include the bid date, location and time, which shall be prepared by the County and Architect and submitted to the County's Purchasing Division during the Bidding Phase. The Architect shall assist the County in filing the required documents for the approval of any governmental or other authorities having jurisdiction over the Project assigned.
- 4) Construction Drawings: In addition to the electronic CAD files, PDF files and related electronic documents, the Architect shall provide three (3) full drawing sets to the County. Hand-drawn drawings, when approved in advance by the County, shall be prepared non-glossy polyester film 3-ml thickness minimum. Standard sheet sizes may be architectural sizes 24" x 36" or 30" x 42".
- 5) Electronic Data: The County requires that final Construction Documents and Specifications are prepared using computer technology in the formats prescribed in paragraph 12 "software requirements".
- 6) Only materials and systems available at the time of this Agreement or reasonably believed to become available prior to the expiration of the Construction Contract shall be specified in the Contract Documents. The Bidding or RFP Documents shall include a list of those items (or categories of items) for which shop drawings or submittals are required.

- 7) The Architect shall furnish Bidding Documents to the County bearing the approval of the following:
 - a. Construction Industries Division, Regulation and Licensing Department,
 - b. Santa Fe County Technical Review Division,
 - c. If applicable: Occupational Health and Safety Bureau; Environmental Protection Division; Environment Department,
 - d. If applicable: The Health Facility Licensing and Certification Bureau; Health Improvement Division; Department of Health,
 - e. If applicable: N.M. Environment Department; N.M. Energy, Minerals and N.M. Natural Resources Department and N.M. Department of Information Technology and Infrastructure Voice Radio (IVR).
- 8) The Architect shall provide a signature-approval block on the front sheet of the drawings and specifications for the following and obtain signatures of the following:
 - a. Santa Fe County,
 - b. Utility companies (as appropriate),
 - c. Design Professional Certification: Project meets as a minimum – current ASHRAE 90.1 requirements,
 - d. Department of Information Technology, IVR (as appropriate).
- 10) Project Wage Determination: The Architect shall, as directed by the County, request from the State of New Mexico Labor and Industrial Division, Workforce Solutions a minimum wage rate determination for the Project pursuant to Section 13-1-11, NMSA 1978. The Architect shall provide the Division a description of the Project, as estimate of construction cost, an approximate bid or proposal opening date, and any other pertinent information required by the Labor and Industrial Division. The Architect shall include a wage rate determination in the Bidding or RFP Documents. Federally funded projects will required both state and federal wage rates.
- 11) Upon completion of the Construction Documents, the Architect shall brief the County on the Bidding Documents, specifically addressing previous County concerns and requirements. At this briefing, the Architect shall furnish the County a final and detailed statement of probable construction cost, including an updated Project schedule. The Architect shall pay any fees incurred in the preparation of the detailed cost estimate provided by the Architect.

- 12) The responsibility of bringing the Project within the Maximum Allowable Construction Cost (MACC) and compliance with construction directives remains with the Architect. Should the Architect at any time conclude that the budget and the scope of work to be accomplished are incompatible; the County shall be notified immediately in writing, with proposed recommendations to reconcile same.
- 13) The Architect shall return all original documents and drawings provided by the County to the County upon the County's request, but in no case later than when the Construction Documents Phase has been completed. Payment for the Construction Documents Phase will not be made to the Architect until the County has received said documents and drawings.
- 14) The Architect shall acquire the approval, in writing, of the County of all documents, and any and all bid alternates, associated with the Construction Documents Phase before commencing work on the Bidding Phase.

E. Bidding and Negotiation Phase. The Architect, following the County's written approval of the Bidding Documents, shall assist the County in obtaining bids and in awarding and preparing contracts for construction, as directed by the County. The finalized Invitation for Bid for Construction shall be prepared by the County and forwarded to the Architect for bidding purposes and the County shall issue a purchase order authorizing the advertisement for the Project.

- 1) The Architect shall provide sets of Bidding Documents as required to the County, and sets as appropriate to all Bidders requesting documents for bidding purposes. Prime bidders shall be defined as General Contractors, who will be allowed no more than three sets; major subcontractors as listed in the form, or other suppliers.
- 2) The Architect shall, as directed by the County, provide an additional number of documents to be placed in plan rooms as well as in the Architect's office for review by prospective Bidders.
- 3) The Architect shall also make sets available to other prospective parties as requested. The Architect may charge the cost of reproduction to the party requesting the documents.
- 4) The Architect shall clarify and answer any questions about the Bidding Documents, as directed by the County, during the bidding process and shall issue Addenda as required to all Bidders, and the County.

- 5) All Addenda, including all revised drawings and sections, must be approved by the County prior to distribution. The Architect shall allow sufficient time for County to review and accept each addendum.
- 6) The Architect shall provide assistance to the County to identify the apparent successful bidder(s) and shall provide written recommendation to accept or reject the bids.
- 7) The Architect shall not discuss with bidders, news media, etc., any presumption of award until the award is decided by the County.

F. Construction Phase-Administration of the Construction Contract. The Construction Phase will commence with the award of the contract for construction and continue until the eleven month inspection and report is submitted by the contractor and approved by the County.

- 1) The Architect shall provide administration of the construction contract as required and defined in the Conditions of the Contract for Construction. The extent of the Architect's duties and responsibilities and the limitations of its authority thereunder shall not be modified without the County's written consent.
- 2) The Architect shall be the representative of the County during the Construction Phase and shall advise and consult with the County. Instructions to the Contractor shall be forwarded only through the Architect. The Architect shall have authority to act on behalf of the County only to the extent provided in the Contract Documents and any amendments thereto.
- 3) The Architect shall at all times have access to the Work, whether it is in preparation or progress.
- 4) The Architect shall submit to the County, for approval, a list of critical inspection points based upon the construction schedule furnished by the Contractor. The Architect shall make periodic visits to the site at such times as appropriate during the progress of the Work for the purposes of notifying the County on the progress and condition of the Work and adequately represent the County. Additionally, the Architect shall familiarize itself with the progress and quality of the Work and determine if the Work is proceeding substantially in accordance with the Contract Documents. On the basis of on-site observations, the Architect shall endeavor to guard the County against defects and deficiencies in the construction. Should the Architect determine that any portion of the

Work varies from the requirements of the Contract Documents, the Architect shall immediately notify the Contractor and the County of the nature of the work required to correct such non-compliance.

- 5) The Architect shall provide a minimum of weekly on-site observation during the construction phase in an attempt to guard the County against defects and deficiencies in the construction, in addition to critical inspections and other reviews and evaluations required by the progress of the Work. The results of all on-site observations shall be documented in field reports submitted to the County within seven (7) days of each such site visit.
- 6) The Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, for acts or omissions of the Contractor, subcontractors, or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.
- 7) The Architect shall determine, certify, and make recommendations to the County for payment for the amounts owing to the Contractor subject to the County's approval, based on observations at the site and evaluations of the Contractor's Applications for Payment. The Architect shall issue Certificates for Payment in such approved amounts as provided in the Contract Documents.
- 8) The issuance of a Certificate and recommendation for payment shall constitute representation by the Architect to the County, based on the Architect's observations at the site as provided in subparagraph 4) above and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that the quality of the Work is substantially in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications state in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the Contractor has used the money paid on account of the Contract Sum.
- 9) The Architect shall render interpretations of the documents necessary for

the proper execution or progress of the Work with reasonable promptness on written request of either the County or the Contractor, and shall render written decisions within a reasonable time on all claims, disputes, and other matters in questions between the County and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents.

- 10) Interpretations and decisions of the Architect shall be consistent with the requirements and intent of the Contract Documents and shall be in written or graphic form.
- 11) The Architect's decisions in matters relating to artistic effect shall be final if consistent with the requirements of the Contract Documents.
- 12) The Architect shall have authority to reject work that does not conform to the Contract Documents. Where rejected Work is not promptly corrected, the Architect shall recommend to the County that the Work shall stop. Whenever, in the Architect's professional opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work be then fabricated, installed, or completed.
- 13) The Architect shall review the Contractor's submittals, such as shop drawings, product data, and samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents; and, for each submittal, the Architect shall designate in writing that the Architect:
 - a. Takes no exception to this submittal
 - b. Rejects the submittal
 - c. Requires corrections as noted by the Architect
 - d. Requires revisions and resubmitted to the Architect
 - e. Requires the Contractor to submit the specified item
 - f. Approves as corrected

Such action shall be taken with reasonable promptness so as to cause no delay. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

- 14) Necessary professional services or construction required to repair or overcome problems caused by the Architect's errors, omissions, inadequacies, or changes not authorized by the County in the preparation of the documents or design shall be the responsibility of the Architect or

its consultants, without additional cost to the County.

- 15) All Change Orders, defined in the Conditions of the Contract for Construction, shall be prepared by the Architect. Such Change Orders shall not become effective or binding on the County or Contractor until signed by the County and others whose signatures are required therein. Attached in Exhibit G and incorporated into this Agreement by reference is a copy of the Change Order form. Using this form, the Change Order shall be initiated by the party requesting a change. Approval in writing by the County of a completed Change Order modifies this Contract for construction to the extent indicated. No Work that could reasonably be expected to alter the contract price or materially alter the Project shall be undertaken until the County has approved a completed Change Order that outlines the desired change. Any deviation from the above described Change Order process shall be considered a material breach of this Contract. The County reserves the right to seek remedy from the Architect for Change Orders made necessary due to the Architect's errors and omissions.
- 16) Upon prior notice to the County, the Architect shall make observations to determine the Dates of Substantial Completion and Final Completion. The Architect shall obtain and forward to the County for the County's review of written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Architect shall then issue a final Certificate for Payment.
- 17) The extent of the duties, responsibilities, and limitations of authority of the Architect as the County's representative during construction shall not be modified or extended without written consent of the County and the Architect.
- 18) Should the Architect, its staff, or its consultants direct the Contractor, or its Subcontractors to undertake work for which additional compensation could reasonably be expected, and if such work is not:
 - a. An emergency endangering life and property
 - b. Required by the Contract Documents
 - c. Required by approved Change Orders (signed by the Architect, the County and the Contractor)

Payment for such work, if accomplished without written authorization, shall not be borne by the County and shall constitute adequate grounds for dismissal or other action against the Architect.

- 19) As part of the Architect's Basic Services, the Architect shall modify the original reproducible drawings and the Project Manual, delineating recorded built conditions of the Project or record documents compiled from the records of the Contractor and the Architect, showing all changes in the Work. This set of Documents shall also include record documents showing actual location of all Work.
 - 20) Record Drawings: Record Drawings and documents are to be delivered to the County within thirty (30) days following Substantial Completion of the project by the Architect. Record Drawings shall be produced by the Architect and shall consist of a set of reproducible drawing sheets, based on a Mylar format, specifications on 8 ½ x 11 inch paper and shall provide all the As-Built conditions documented by the Contractor for the project. The Architect shall also provide to the County a set of PDF drawing files and CAD drawing files formatted on CD-ROM with file format to follow the standard utilized by the County at the time of this Agreement. The CD-ROM files shall duplicate the conditions documented on the Mylar Record Drawings. Further, the Architect shall deliver three (3) sets of the operations and maintenance manuals, hard copy and electronic, training videos, written warranties and related documents.
- G. Project Closeout. Upon receipt of written notice that construction is ready for final inspection and work is found acceptable for final payment. The Architect shall provide "as built" drawings in hard copy and electronic form following completion of the project.
- H. 11 Month Inspection Phase. The Architect shall submit to the County its recommendations regarding the completion of all construction contracts. The Architect shall obtain from the Contractor all releases, waivers of lien, guarantees, warranties, maintenance data, bonds, and acknowledge receipt of the Contractor's record drawings. The Architect shall obtain and deliver to the County a signed receipt for all materials turned over.
- 1) The Architect shall attend one design process analysis meeting to assess implementation of sustainable design and construction requirements into the project and review any lessons learned from the overall effort.
 - 2) The Architect shall, eleven months after substantial completion of the project, schedule a meeting with the Architect, Architect's consultants and the County to evaluate the building and its operations, inspect architectural systems, and endeavor to discover defects in materials, equipment, and workmanship. The Architect shall provide a written report of this activity to the County within seven (7) calendar days. The

County, through the Architect, shall notify affected Contractor of any corrective action noted in the report.

6. PROJECT REPRESENTATION BEYOND BASIC SERVICES

If the County and the Architect agree that more extensive representation for observation of the Site than that described in subparagraph E.F.5 shall be provided, the Architect shall, upon written authorization of the County, provide one or more Project Representatives to assist the Architect in carrying out such responsibilities at the site.

- A. Subject to County's approval, the Architect's Project Representative shall be selected, employed, and directed by the Architect. The Architect shall be compensated therefore as mutually agreed between the County and the Architect as set forth in an approved amendment to this Agreement, which shall, in addition, describe the duties, responsibilities, and limitations of authority of such Project Representative(s).
- B. Through the observations of such Project Representative(s), the Architect shall provide further protection for the County against defects and deficiencies in the Work to determine that the Work is carried out in conformance with the plans and specifications; but the furnishing of such project representation shall not diminish the rights, responsibilities, or obligations of the Architect as described in this Agreement.
- C. The County reserves the right to designate a County Representative in lieu of the Architect's Project Representative to provide additional site representation for the County beyond that provided by the Architect. If the County elects to provide a County Representative in lieu of a Project Representative, this subsection shall not diminish the rights, responsibilities, or obligations of the Architect established in this Agreement. The County Representative's duties and limits of authority shall be established so as not to conflict with those of the Architect. The Architect shall cooperate with the County Representative in the performance of its duties.
- D. The County reserves the right to employ an independent cost consultant to provide value and cost architectural or engineering services on the Project. If a cost consultant is retained, an amendment to this Agreement will be required identifying the duties and limits of authority of the cost consultant. The Architect shall cooperate with the cost consultant in the performance of the cost consultant's duties.

7. ADDITIONAL SERVICES

Additional Services of the Architect are services that are in addition to but not included in Basic

Services, provided that the Architect is not obligated to perform, furnish or incur such services as a part of the Architect's Basic Services. These services may be identified as part of the Architect's fee proposal and included with the lump sum fee as such. These services shall be provided when authorized in advance in writing by the County, and they shall be paid for by the County as outlined below. Attached as Exhibit D and incorporated into this Agreement by reference is a copy of the Architect's Additional Services Amendment Form. Additional Services may include, but are not limited, to the following:

- A. Providing financial feasibility or other special studies.
- B. Providing planning surveys, site evaluations, environmental impact studies, or comparative studies of prospective sites other than those services required under Basic Services to provide a complete and operable facility.
- C. Providing Services related to future facilities, systems, and equipment that are not intended to be constructed during the Construction Phase.
- D. Making revisions in drawings, specifications, or other documents when such revision are inconsistent with written approvals or instructions previously given and are due to causes beyond the control or not the responsibility of the Architect. This does not apply to revisions necessary for final approval of Programming, Schematic Design Studies, and Statement of Project Scope, and Design Development Documents, or to revisions necessary to bring the Project within the designated MACC. The Architect shall receive written authorization from the County before commencing work on any change or alteration to the Contract Documents.
- E. Preparing drawings, specifications, and supporting data and providing other services in connection with Change Orders, provided that the adjustment in the Basic Compensation resulting from the adjusted Construction Cost is not for work which should have been provided pursuant to Basic Services and provided that such Change Orders are required because of causes not related to the actions or responsibilities of the Architect.
- F. Conducting investigations, surveys, valuations, inventories, or detailed appraisals of existing facilities when such work is not covered by this Agreement.
- G. Providing consultation concerning replacement of any Work damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such Work.
- H. Providing tests, inspections, and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

- I. Providing all required work for design, selection, and preparation of contract documents, and bidding for the procurement of furniture, fixtures, and related equipment. Following installation of furniture, fixtures, and equipment, Architect shall inspect the installation and prepare a list for items requiring correction. Upon notification from the installer that all corrections have been made, Architect shall again inspect the site to confirm that corrections were properly done and authorize final payment of the furniture, fixtures and equipment.
- J. Payments for additional services of the Architect shall be a negotiated lump sum, excluding additional services of consultants.
- K. Payments for additional services of consultants, including but not limited to the additional structural, civil, landscape, interior design, mechanical, and electrical services, shall be computed by applying a multiple not to exceed of 1.10 times the amounts billed to the Architect for such services. The Architect shall provide to the County for approval, hourly rates for consultants and its employees detailed by professional levels prior to incurring any liability for Additional Services. GRT will be added as a separate item in the pay request.

8. MEETINGS

The Architect shall be attendance at, and record minutes of, all meetings required by this Agreement throughout the course of the project as set forth herein. The Architect shall initiate additional meetings germane to the Agreement when authorized, in writing, to the County. The Architect shall distribute copies of meeting minutes to participants and other interested parties as directed by the County within seven (7) calendar days. The Architect consultants shall attend each meeting as appropriate or as requested by the County.

9. MONTHLY PROGRESS REPORTS

- A. The Architect shall submit monthly progress reports of design/construction activities to the County. Failure to submit monthly reports may result in delay to the Architect's progress payments. The report shall include:
 - 1) Activities completed and items pending since last report,
 - 2) Projected progress,
 - 3) Comparison of schedule to actual progress, and
 - 4) Decisions or information required.

B. The Architect shall request from the County the following:

- 1) Information sufficient for the Architect to develop program criteria including the County's goals, objectives, and needs, and the organizational chart of individuals, furnishings, and equipment that shall occupy the Project.
- 2) To the extent practicable and reasonable, the Architect shall incorporate the County's requests into the documents for construction; however, the Architect is responsible solely to the County for the types of material incorporated into the construction, the size of the facilities constructed, and to design within the MACC.
- 3) A list (by manufacturer and model number) of special equipment (other than 110 volt, 60HZ, requiring less than 10 amps) that requires utility services, including, but not limited to, telecommunication equipment such as data transmission and computer lines that shall be designated by the County's Information Technology Division.

10. FURNISHINGS AND EQUIPMENT

The Architect shall provide dimensional, color finish, power, etc., information necessary to specify any moveable furnishings and equipment not included in the project. Dimensional furniture plans shall incorporate and coordinate the requirements for electrical, communications, and data based on use and equipment, as well as the location of HVAC control devices and access panels. The Architect shall be compensated with Additional Services for any design and specification related to movable furnishings, fixtures and equipment requested by the County beyond that described above, provided that the Architect is not obligated to perform, furnish or incur such services as part of Basic Services.

11. TELECOMMUNICATIONS EQUIPMENT

Telecommunications and/or radio equipment for County facilities generally falls under the jurisdiction of the County's Information Technology Division. The County will instruct the Architect when and/or where outlets, conduits, wiring, etc., are to be included in the Project. The Architect shall coordinate with utility companies and other agencies.

12. SOFTWARE REQUIREMENTS

- A. Drawing Formats. All CAD drawings shall be supplied in PDF format as well as in DWG format and be readable by the County-supported CAD desktop software (Autodesk AutoCAD). "Readable" means the ability to open a file without any errors (such as proxy, font substitution, etc.) and with objects, layers, and other file properties remaining intact.

- B. Other formats. File formats for word processor documents, spreadsheet documents, or slide presentations shall be those used by the Microsoft family of office software such as Word, Excel, and PowerPoint. Contact the County for the version. Macros may be included with these documents provided they are virus free, their function is explained next to the Code, and they are not write protected.
- C. Graphics shall be submitted in TIF, GIF, JPG, CALS or PDF file format (compressed image formats only). This option is intended for photos, conceptual sketches, etc., and not to indicate that raster file drawings will be accepted in place of AutoCAD DWG files.
- D. Data file formats for projects that employ information contained in a database or spreadsheet shall be those used by one of the following: Oracle, Microsoft Access, Microsoft SQL, or Microsoft Excel. All linkages of non-graphical data with graphic elements, relationships between database tables, and report format shall be maintained. All database tables shall conform to the structure and field naming guidance provided by the County. The Architect shall conform database file format preference with the County prior to issuance of database files.
- E. File formats for project management documents shall be either that used by Microsoft Project or hard copy. Confirm file format with County. Save project files with baseline.
- F. Deliverables integrating multiple file formats may be submitted as a PDF (version 4 or later) in addition to the base file structure. Examples include reports, photographs, and manuals created by using a variety of software packages and file formats. Confirm deliverable format preference with the County.
- G. Building Information Modeling (BIM). Projects and project teams are encouraged to utilize 3D object model and other building information model technology and software applications (including during project stages of planning, design, construction, and handover to space management and facility operations and maintenance). Outputs from these applications are acceptable as deliverables to the County, provided that 2D output is also submitted that fully complies with all provisions herein.

13. KEY PERSONNEL AND CONSULTANTS

The Architect's key personnel and consultants designated for this Project shall remain assigned for the duration of the Project. Any substitutions of the Architect's key personnel and consultants require written notification to the County and prior written consent of the County.

The County may require substitution of any personnel or consultants provided that the County has first notified the Architect in writing and allowed a reasonable period for adjustments and/or corrections.

14. GEOTECHNICAL ENGINEERING

The Architect shall, during the Schematic Design Phase, submit to the County a statement of necessary geotechnical or soils engineering services that will be required. If the Architect does not believe the services of a Geotechnical Engineer are required for the project, a written notice of such shall be provided to the County stating same. Geotechnical engineering and any necessary surveys shall be County-provided, as Additional Services or a reimbursable expense.

15. CIVIL ENGINEERING

The Architect shall, during the Schematic Design Phase, submit to the County a statement of need and extent of civil engineering required for the project to protect new and existing structures on or around the site from adverse conditions. Extensive civil engineering, or civil engineering work outside of the immediate site proposed for the project, shall be Additional Services or a reimbursable expense.

16. STANDARD OF CARE

The Architect represents that its officers, agents, employees and consulting professionals shall possess the experience, knowledge, and character necessary to qualify them individually for the services to be performed by them under this Agreement. All services shall be performed in accordance with the standards of their respective profession. Such affirmation by consultants, sub consultants, joint ventures, and agents shall not be construed as a diminution of the Architect's liability and responsibilities to the County.

17. APPLICATION OF PROFESSIONAL SEALS

Final technical reports and all bidding documents shall contain a legible seal, signature, date and license expiration date of the design professional responsible for the document or under whose supervision the document was prepared. For project manuals and technical reports the seal shall be provided by the design professional responsible for the overall coordination of the project. If more than one design professional has responsibility for portions of the work, additional seals may be provided on the cover, or on a separate signature sheet immediately following the table of contents.

18. REVIEW PROCESS

The Architect shall submit documents for review as required by the Agreement. The Architect shall provide five (5) sets of review documents to the County for each review. Following the reviews, the Architect shall respond to the County's Project Manager in writing to all review

comments and questions within fourteen (14) calendar days.

19. SITE

The physical location on which the Project is built, including all land acquired for the Project or associated with the Project, including surface drainage, wells, transmission lines, easements, rights-of-ways, roadway and existing facilities that may be directly or indirectly affected by the Project or that might affect the Project.

20. TIME

The Architect shall perform Basic and Additional Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. The Architect shall submit, for the County's approval and as part of this Agreement, a schedule of performance of the Architect's services and shall include allowances for periods of time required for the County's review and approval of submissions and for approvals of authorities having jurisdiction over the Project. This schedule, when approved by the County, shall not, except for reasonable cause not within the control of the Architect, be exceeded by the Architect (see Exhibit A, Compensation and Schedule. Failure of the Architect to perform within this schedule except through authorized extensions shall constitute a basis for termination and/or withholding of payment until schedule compliance is achieved by the Architect.

21. REIMBURSABLES

Reimbursable expenses are those in addition to Basic Services compensation and are the actual, incidental expenditures made by the Architect or its employees in the interest of the Project. The Architect shall incur no expenses for which the Architect is entitled reimbursement until the County gives written approval. Reimbursable expenses shall include, but not limited to, the following:

- A. Expenses of transportation when traveling in connection with the Project. Such expenses are limited to per diem and mileage rates are set forth in the Per Diem and Mileage Act, Section 10-8-1 to 10-8-8, NMSA 1978 and DFA Rule 95-1 as amended, except that the County shall authorize such travel in advance.
- B. Expenses of fees paid for securing approvals of authorities having jurisdiction over the Project.
- C. The Architect shall charge Bidders or Offerors a deposit fee equal to the full cost of reproduction of drawings, specifications, and other documents required by the County to solicit bids or proposals and execute the Construction Contract. This fee shall be completely refunded if the documents are returned in usable condition within the time frame specified in the Invitation for Bid or Request for Proposals. All forfeited fees shall be returned to the County.

- D. Construction documents and specifications will be printed by the lowest quote received from print rooms specified by the County. All reproduction required must be approved in writing by the County prior to request. This expense shall be paid by the County for the initial Bidding and by the Architect for subsequent Biddings. All other reproductions as may be required for the County's review or for the office use of the Architect and the Architect's consultants shall be provided as part of the Architect's Basic Compensation.
- E. Reimbursable expenses, if allowed by this Agreement, shall be compensated at direct cost not to exceed the reimbursable amounts as indicated in Exhibit A of this Agreement, unless otherwise modified by written amendment.

22. OWNER'S RESPONSIBILITIES

- A. The County may designate, in writing, a representative authorized to act in its behalf, however, authority for final approval of the Project Phase Documents, the Contract Documents, or any Change Order is retained by the County. The County shall examine documents submitted by the Architect and shall render decisions promptly to avoid unreasonable delay in the progress of the Architect's services.
- B. The County may designate a Project Manager for the project who shall be the County's primary representative in the administration of this Agreement. The Architect will report to the County's Project Manager. All correspondence from the Architect shall be communicated to the Project Manager.
- C. The County shall ensure review in writing of each project phase and shall notify the Architect of the accord.
- D. The County shall furnish a legal description and certified land survey of the site, giving, as applicable grades and lines of streets, alleys, pavements, and adjoining property; rights-of-ways, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site; locations, dimensions, and complete data pertaining to existing buildings, other improvements, and trees, and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths.
- E. When documents and drawings provided under the above subparagraph are furnished to the Architect, payment of the Construction Document Phase will not be made to the Architect until the County has received all said documents and drawings.
- F. The County reserves the right not to provide certain project-related documents or drawings to the Architect at the County's discretion.

- G. If the County observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the County to the Architect.
- H. The County shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and of the Work.

23. RESPONSIBILITY FOR CONSTRUCTION COST

- A. When the detailed statement of probable construction cost required by subparagraph 5.D.11) or an evaluation prepared by the Architect indicates that the Project exceeds the MACC, the provisions outlined below shall apply:
 - 1) Evaluations of the County's Project budget, statements of probable construction cost, and detailed estimates of construction cost prepared by the Architect represents the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that the Architect does not have control over the cost of labor, materials, or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project budget proposed, established, or approved by the County, or from any Statement of Probable Construction Cost or other cost estimate or evaluation prepared by the Architect.
 - 2) The MACC may be adjusted by the County at the completion of the Programming Phase, and the design fees shall be modified. The MACC, at the start of the Schematic Design Phase, may only be adjusted based upon modifications to the Scope of Work approved in advance by the County. The Architect shall notify the County in writing at any time the estimated cost of construction is expected to exceed the MACC. The Architect's written notification shall include a detailed explanation and shall provide suggestions for reducing the estimated cost so that it does not exceed the MACC. The County agrees to cooperate with the Architect and permit reasonable and necessary revisions or reductions to the scope of the Project. The Architect agrees to revise the drawings and specifications as necessary at no additional expense to the County, if so requested by the County, in order to bring the estimated cost within the MACC;
 - 3) The MACC is established, as a condition of this Agreement, as a fixed limit of Construction Cost for design and bidding purposes. The Architect shall be permitted to determine what materials, equipment, component systems, and types of construction are to be included in the Bidding or Proposal

Documents to bring Construction Cost within the MACC. With the written consent of the County, the Architect may also include in the Bidding or Proposal Document either additive or deductive alternate bids or proposals to adjust the Construction Cost to the fixed limit;

- 4) If bidding or negotiations with potential Contractors have not commenced within two months after the Architect submits Bidding or Proposal Documents to the County, the Project budget and/or MACC shall be adjusted to reflect any change in the general level of prices in the construction industry between the date of submission of the Bidding or Proposal Documents to the County and the date on which proposals are sought;
- 5) The MACC, therefore, is established as a condition of this Agreement. When it is exceeded by the lowest bona fide bid, the County may:
 - a. Give written approval of an increase on the MACC, or
 - b. Authorize re-bidding the Project within a reasonable time, and
 - c. Cooperate with the Architect in revising the Project Scope and, as required, to reduce the Probable Construction Costs.

If the County elects to reduce the Probable Construction Cost, the County shall cooperate with the Architect in revising the quality and scope of the Project; and the Architect, without additional charge for services or re-printing of the Drawings and Specifications shall modify the Drawings and Specifications as necessary to bring the Construction Cost within the MACC. The Architect shall then assist the County through the Bidding process (see Subparagraph 5.E).

24. ARCHITECT'S RECORDS AND AUDIT

- A. Records of expenses by the Architect and its consultants pertaining to all services under this Agreement shall be kept on the basis of generally accepted accounting principles and shall be available at mutually convenient times to the County or the County's authorized representative;
- B. The County shall have the right to audit all such records and billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments;
- C. Records of expenses shall be kept by the Architect and its consultants and shall be available to the County until all applicable Statutes of Limitations have run, and this

provision shall survive and continue beyond the termination of other terms of this Agreement;

- D. These records shall be subject to inspection by the County and shall be maintained for inspection for a period of three (3) years. Billings may be audited both before and after payment; and payment by the County under this Agreement and shall not foreclose the right of the County to recover excessive or illegal payments.

25. OWNERSHIP AND USE OF DOCUMENTS

- A. Original construction document drawings, designs, specifications, notes, project manuals, and/or related documents and other work developed in the performance of this Agreement by the Architect shall become the sole property of the County whether the Project for which they are made is constructed or not, pursuant to Section 13-1-123, NMSA 1978. The County shall keep these documents on file. The Architect may maintain a complete reproducible set of any and all record documents developed under this Agreement;
- B. All documents, including drawings and specifications prepared by the Architect pursuant to this Agreement are instruments of service in respect to the Project. The Architect shall not be liable should the County use the documents, in whole or in part, in the future when the Architect's services are not retained;
- C. The original drawings may be marked by the County or the Architect to designate the restrictions of use of these documents as set forth in the subparagraph 13.B;
- D. Copyright: No reports, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Architect.

26. MAINTENANCE

Ease of maintenance and the ability to repair major items of installed equipment by replacement are essential to the Project. To ensure that these services can be adequately performed after the Project is accepted by the County, the Architect shall:

- A. In all relevant Contract Documents, design and provide for all major installed equipment in the Project, including but not limited to, removal, access, maintenance, and storage space needs. In addition, all installed equipment systems shall be appropriately identified and labeled to describe the capacities, flows, and other pertinent information related to their maintenance and safe operation;
- B. Specify only equipment that can be readily maintained by the County or other qualified commercial repairman;

- C. Provide Construction Documents that accurately depict the installation of all major items of installed equipment and which provide reasonable detail on all other major systems to be installed;
- D. At the completion of the Schematic, Design Development, and Construction Documents Phases, brief the County on the rationale for the selection of the major mechanical and electrical systems to be specified in the Contract Documents, together with the probable life-cycle costs.

27. EXHIBITS

All exhibits, attachments, riders and addenda referred to in this Agreement, including but not limited to, the exhibits referred to in this Agreement, as well as those listed below, are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

Exhibit A	Compensation and Schedule
Exhibit B	Architect's Pay Request
Exhibit C	Amendment for Basic Services
Exhibit D	Amendment for Additional Services
Exhibit E	Listing of Consultants
Exhibit F	Amendment for Consultant Additional Services
Exhibit G	Construction Change Order
Exhibit H	Bidding Index

28. ATTACHMENTS LIST

Attachment 1	Project Assignment - Scope of Work and Project Schedule
Attachment 2	Authorization to Proceed
Attachment 3	Hourly Rate Fee Schedule (submitted by the Architect)

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Kathleen S. Holian, Chairperson
Santa Fe County Board of Commissioners


Date

ATTEST

Geraldine Salazar,
Santa Fe County Clerk

Date

APPROVED AS TO FORM


Stephen C. Ross
Santa Fe County Attorney

11/26/13

Date

FINANCE DEPARTMENT APPROVAL

Teresa C. Martinez
Finance Director

Date

CONTRACTOR

Signature

Date

Print Name

Title

Federal Identification Number: _____

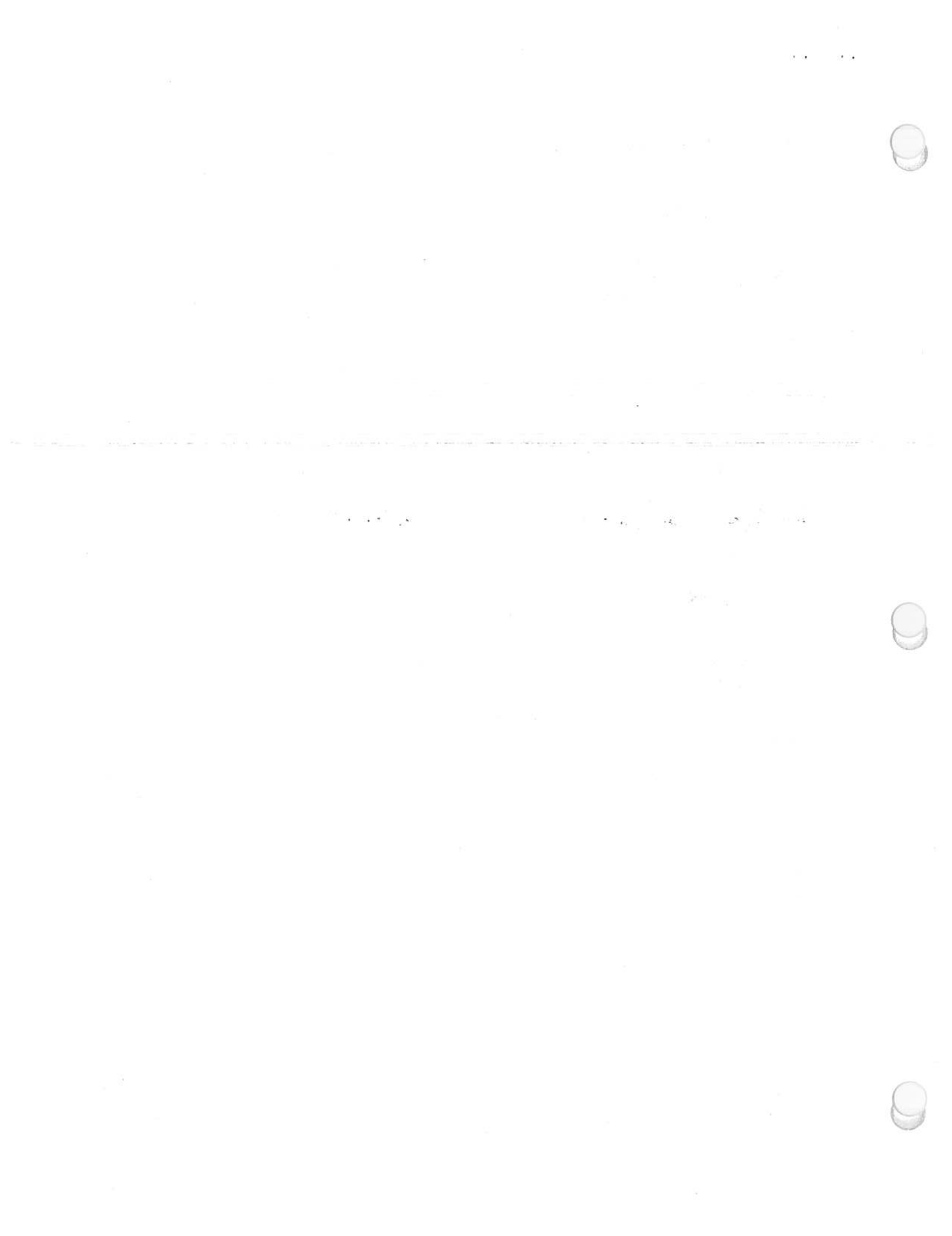


EXHIBIT A**COMPENSATION AND SCHEDULE**

Project Name: _____
 Project Number: _____
 Project Location: _____

BASIC SERVICES**Date to be completed**

Programming Phase	10%	\$0.00	Date or Weeks
Schematic Phase	15%	\$0.00	Date or Weeks
Design Development Phase	20%	\$0.00	Date or Weeks
Construction Document Phase	25%	\$0.00	Date or Weeks
Bidding and Negotiations Phase	3%	\$0.00	Date or Weeks
Construction Phase	22%	\$0.00	Date or Weeks
Project Closeout	3%	\$0.00	Date or Weeks
11 Month Inspection Phase	2%	\$0.00	Date or Weeks
Total Basic Services Amount	100%	\$0.00	

REIMBURSABLES

LIST

\$0.00
\$0.00
\$0.00

Total Reimbursable Amount (Not to exceed)

ADDITIONAL SERVICES

LIST SERVICES

\$0.00
\$0.00
\$0.00

Total Additional Services Amount

\$0.00

CONSULTANT SERVICES

LIST SERVICES

\$0.00
\$0.00
\$0.00

Total Consultant Services Amount

\$0.00

TOTAL SERVICES AMOUNT

\$0.00

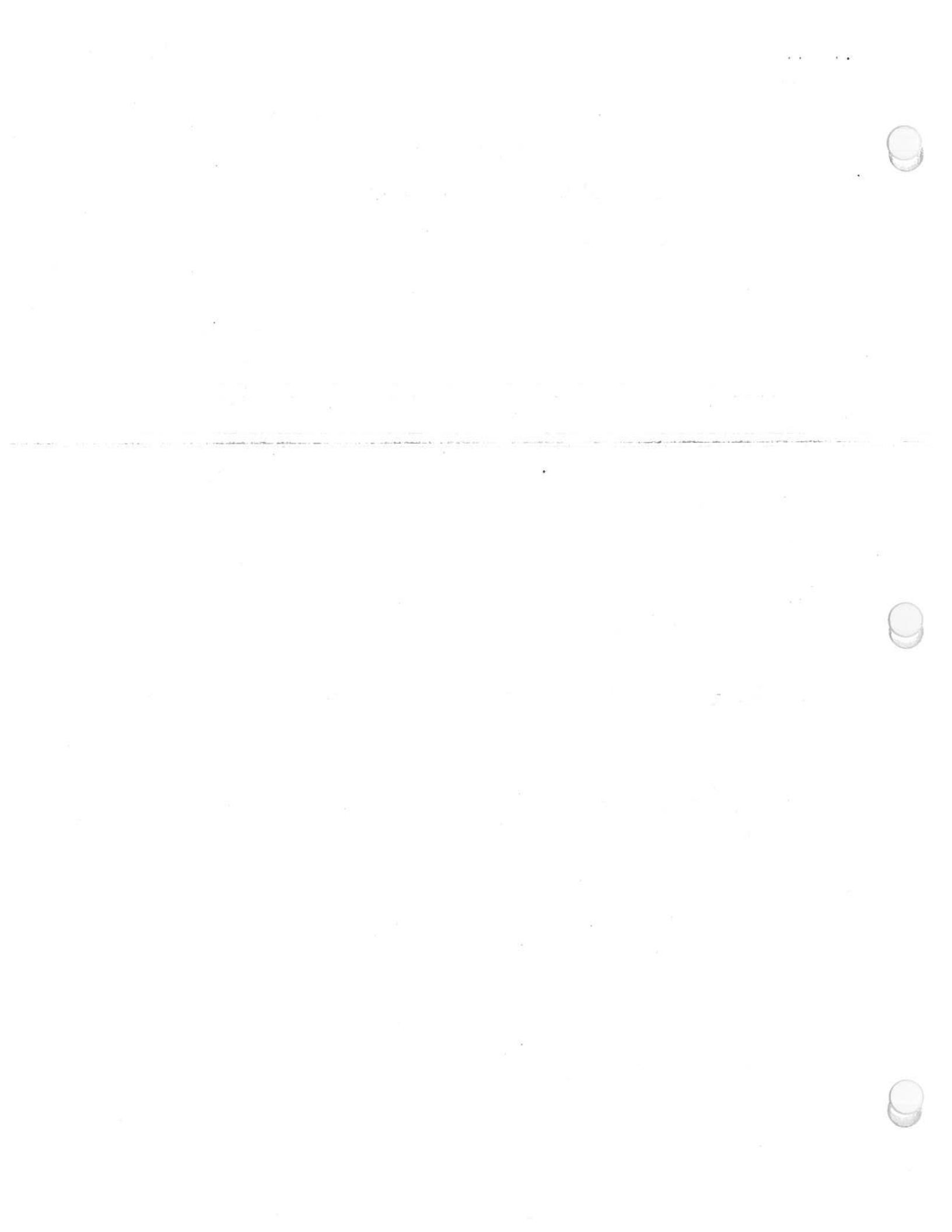


EXHIBIT B**ARCHITECT'S PAY REQUEST FORM**

Architect: _____ **Pay Request Statement No.** _____
Date: _____ **Project Number:** _____
Project Name: _____ **Project Location:** _____

Basic Services	Contract Sum	Percentage Completed	Completed to date	Less Previous Request	Current Request	Revision (SFC)
Programming Phase	\$	%	\$	\$	\$	
Schematic Phase	\$	%	\$	\$	\$	
Design Development Phase	\$	%	\$	\$	\$	
Construction Document Phase	\$	%	\$	\$	\$	
Bidding and Negotiation Phase	\$	%	\$	\$	\$	
Construction Phase	\$	%	\$	\$	\$	
Project Closeout	\$	%	\$	\$	\$	
11 Month Inspection Phase						
Subtotal						
CONTRACT CHANGES						
REIMBURSABLE *						
Type of Services	\$	%	\$	\$	\$	
Type of Services	\$	%	\$	\$	\$	
Type of Service	\$	%	\$	\$	\$	
Subtotal						
ADDITIONAL SERVICES **						
Type of Service	\$	%	\$	\$	\$	
Type of Service	\$	%	\$	\$	\$	
Type of Service	\$	%	\$	\$	\$	
Subtotal						
Total	\$	%	\$	\$	\$	

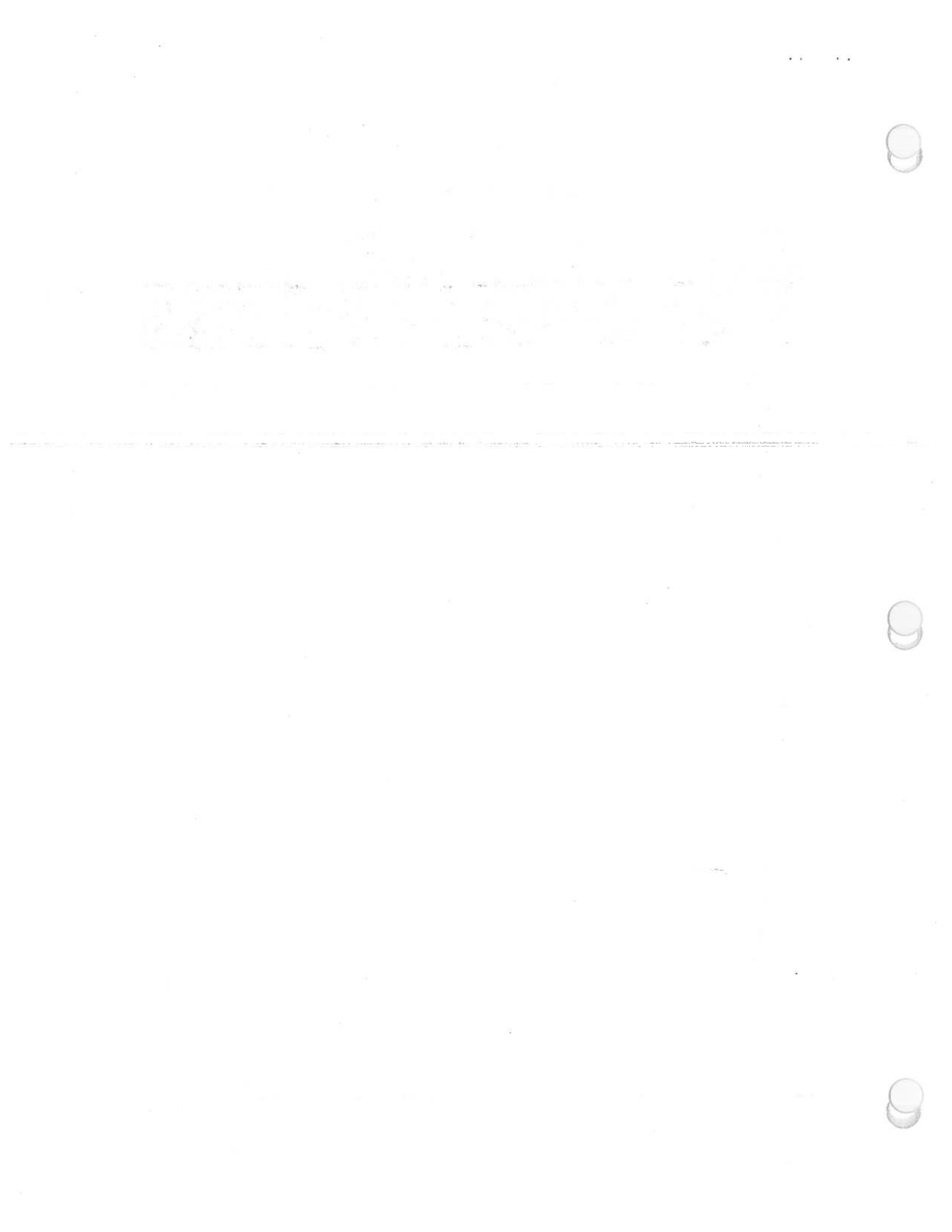


EXHIBIT C

**AMENDMENT TO AGREEMENT
BETWEEN SANTA FE COUNTY AND XXXXXXXX
FOR PROFESSIONAL ARCHITECTURAL BASIC SERVICES**

In accordance with Part A Paragraph 5 Architect's BASIC SERVICES and Part B. Paragraph 1, SCOPE OF WORK, where applicable, to the Agreement Between the County and Architect, the Architect is authorized to provide the following Basic Services (scope of work and maximum compensation).

PROJECT NAME: _____

PROJECT NUMBER: _____

PROJECT LOCATION: _____

LIST SERVICES:

- 1.
- 2.
- 3.
- 4.
- 5.

Justification for Basic Services (Required):

Basic Services Compensation Amount	\$0.00
Reimbursable Amount (If Applicable)	\$0.00
Additional Services Amount	\$0.00
Consultation Services Amount (If Applicable)	\$0.00

Total	\$0.00
--------------	---------------

SIGNATURE PAGE

SANTA FE COUNTY

Katherine Miller
Santa Fe County Manager

Date: _____

Approved as to Form

Stephen C. Ross
Santa Fe County Attorney

Date: _____

Finance Department Approval

Teresa C. Martinez
Finance Director

Date: _____

ARCHITECT

Signature

Date: _____

Print Name

EXHIBIT D

AMENDMENT TO AGREEMENT BETWEEN SANTA FE COUNTY AND XXXXXXXXX FOR PROFESSIONAL ARCHITECTURAL ADDITIONAL SERVICES

In accordance with Part A Paragraph 7 Architect's ADDITIONAL SERVICES and Part B. Paragraph 1, SCOPE OF WORK, where applicable, to the Agreement Between the County and Architect, the Architect is authorized to provide the following Additional Services (scope of work and maximum compensation).

PROJECT NAME: _____

PROJECT NUMBER: _____

PROJECT LOCATION: _____

LIST SERVICES:

- 1.
- 2.
- 3.
- 4.
- 5.

Justification for Basic Services (Required):

Basic Services Compensation Amount	\$0.00
Reimbursable Amount (If Applicable)	\$0.00
Additional Services Amount	\$0.00
Consultation Services Amount (If Applicable)	\$0.00

Total	\$0.00
--------------	---------------

SIGNATURE PAGE

SANTA FE COUNTY

Katherine Miller
Santa Fe County Manager

Date: _____

Approved as to Form

Stephen C. Ross
Santa Fe County Attorney

Date: _____

Finance Department Approval

Teresa C. Martinez
Finance Director

Date: _____

ARCHITECT

Signature

Date: _____

Print Name

EXHIBIT E**LISTING OF CONSULTANTS**

PROJECT NAME: _____ PROJECT NO: _____

<i>CIVIL:</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>ELECTRICAL</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:
<i>LANDSCAPING</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>ESTIMATING</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:
<i>STRUCTURAL</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>OTHER</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:
<i>MECHANICAL</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>OTHER</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:

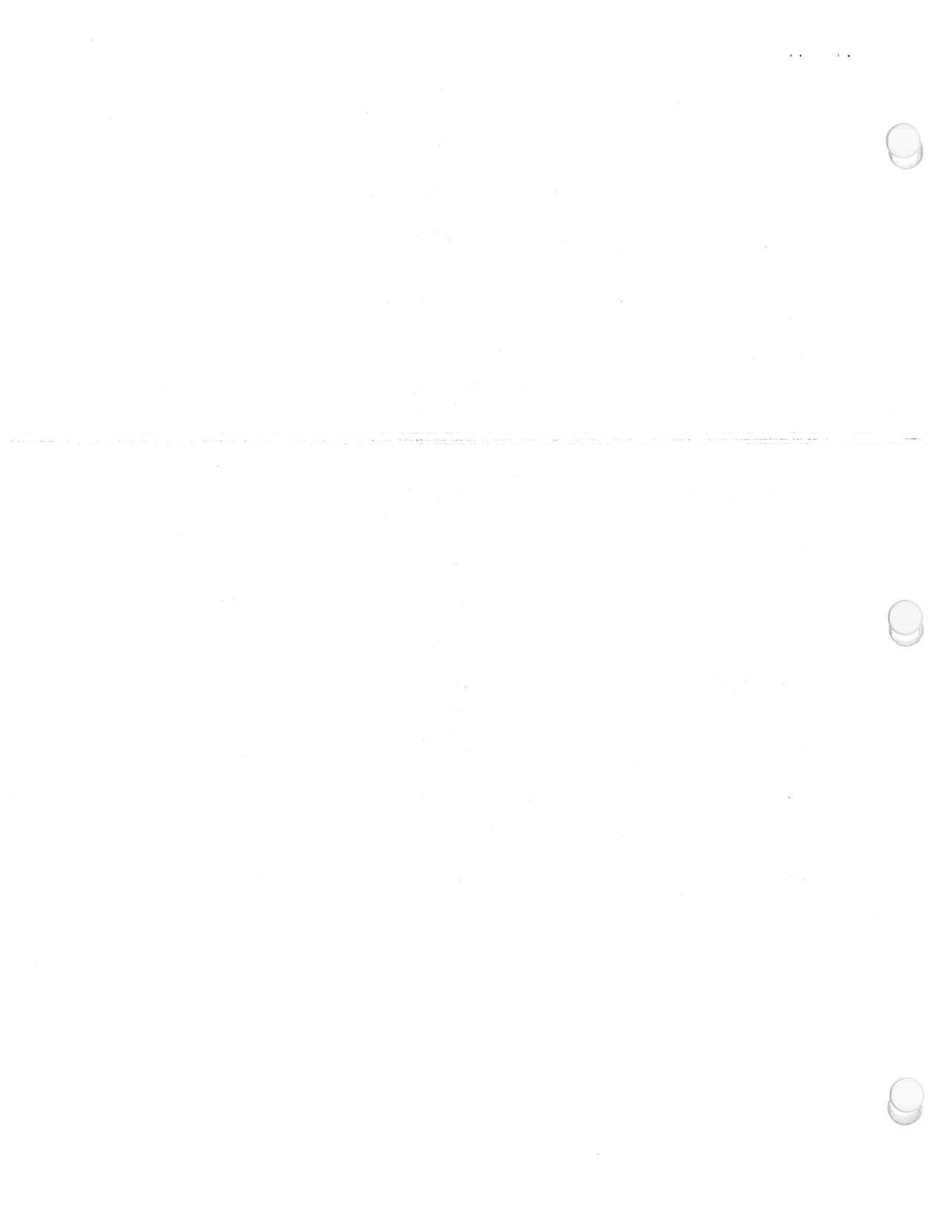


EXHIBIT F**AMENDMENT TO AGREEMENT
BETWEEN SANTA FE COUNTY AND XXXXXXXXX
FOR CONSULTANT ADDITIONAL SERVICES**

In accordance with Part B Paragraph 3 Architect's ADDITIONAL SERVICES, where applicable, to the Agreement Between the County and Architect, the Consultant is authorized to provide the following Additional Services (scope of work and maximum compensation).

PROJECT NAME: _____

PROJECT NUMBER: _____

PROJECT LOCATION: _____

LIST SERVICES:

- 1.
- 2.
- 3.
- 4.
- 5.

Justification for Basic Services (Required):

Basic Services Compensation Amount	\$0.00
Reimbursable Amount (If Applicable)	\$0.00
Additional Services Amount	\$0.00
Consultation Services Amount (If Applicable)	\$0.00

Total	\$0.00
--------------	---------------

SIGNATURE PAGE

SANTA FE COUNTY

Katherine Miller
Santa Fe County Manager

Date: _____

Approved as to Form

Stephen C. Ross
Santa Fe County Attorney

Date: _____

Finance Department Approval

Teresa C. Martinez
Finance Director

Date: _____

ARCHITECT

Signature

Date: _____

Print Name

EXHIBIT G

SANTA FE COUNTY

CHANGE ORDER

DISTRIBUTED TO: OWNER ☐ CONTRACTOR ☐ FIELD ☐
 ARCHITECT ☐ SUBCONTRACTOR ☐ OTHER ☐

PROJECT:
 CONTRACTOR:

CHANGE ORDER NUMBER:
 DATE:
 PROJECT NUMBER:
 CONTRACT DATE:
 CONTRACT FOR:

THIS CONTRACT IS CHANGED AS FOLLOWS:

#	COST	DESCRIPTION
1		
2		
3		
4		
5		

The original contract sum: \$
 Net change by previous Change Orders: \$
 Contract Sum prior to this Change Order: \$
 Contract Sum will be increased by this Change Order in the amount of: \$
 New Contract sum including this Change Order will be: \$
 The Contract Time will be increased by () days.
 The date of Substantial Completion as of the date of this Change Order is:

GROSS RECEIPTS TAX (GRT) IS NOT ADDED TO THIS CHANGE ORDER

ACCEPTED BY:

ARCHITECT

CONTRACTOR

OWNER

By: _____

By: _____

By: _____

Date: _____

Date: _____

Date: _____

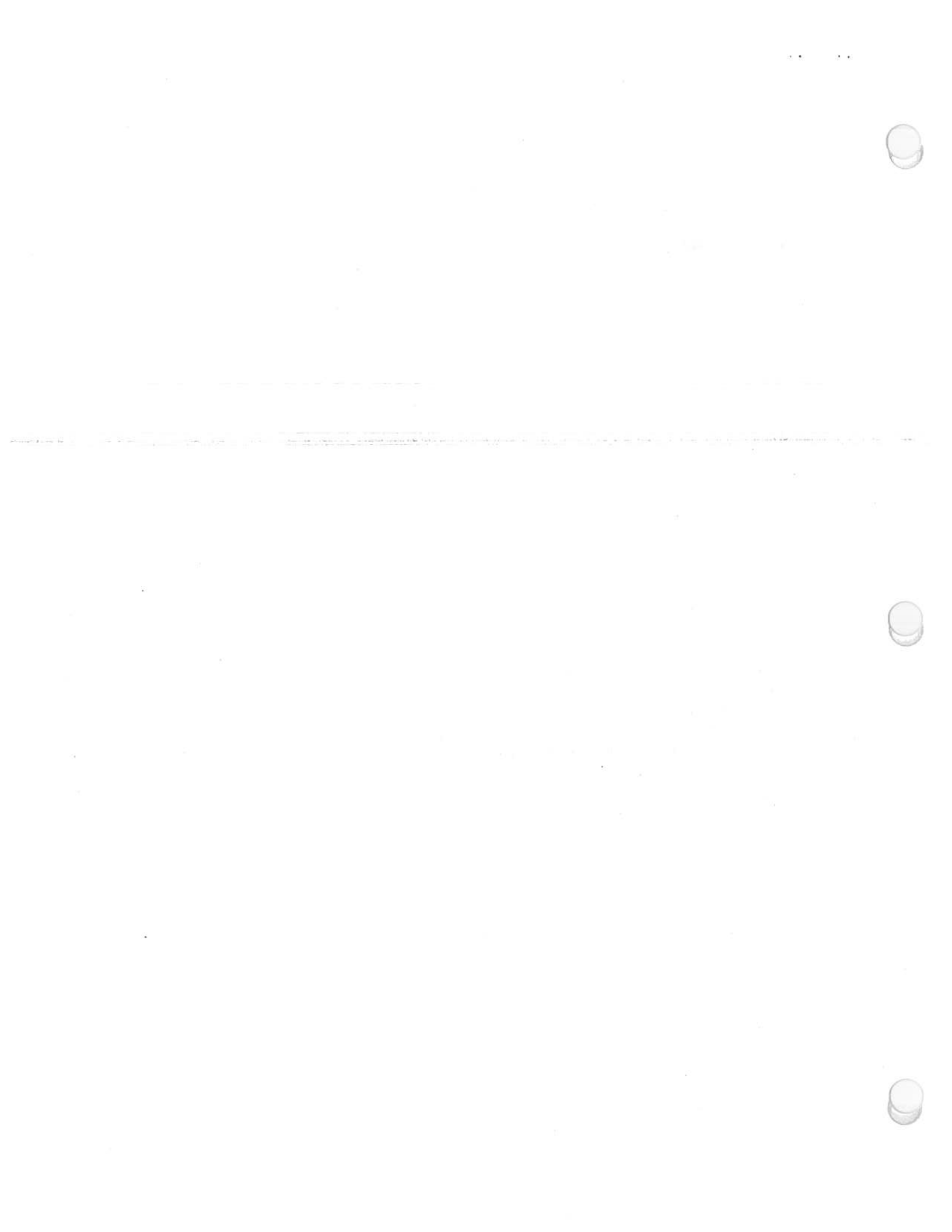


EXHIBIT H**INDEX TO BIDDING**

TITLE	PAGES
Invitation for Bid Advertisement	00 1000-1
Definitions	00 2000-1-2
INSTRUCTION TO BIDDERS	00-3000
Location and Description of Work	00 3000-1
Time and Place of Receiving and Opening Bids	00 3000-1
Specifications	00 3000-1
Contract Time	00 3000-1
Copies of Bidding Documents	00 3000-1
Bidder's Representation	00 3000-2
The Complete Contract Documents Contain the Following	00 3000-2
Interpretations/Addenda	00 3000-2
Preference in Procurement	00 3000-2
Subcontractors, Suppliers and Others	00 3000-4
Substitutions	00 3000-4
Wage Rates/Registration with the Labor and Industrial Division	00 3000-4
Bid Form	00 3000-4
Bid Security	00 3000-5
Power of Attorney	00 3000-5
Qualifications of Bids	00 3000-5
Submissions of Bids	00 3000-5
Modification and Withdrawal of Bids	00 3000-6
Gross Receipts Taxes	00 3000-6
Consideration of Bids	00 3000-6
Bid Opening Procedure	00 3000-6
Bids to Remain Open	00 3000-7
Award of Contract	00 3000-7
Liquidated Damages	00 3000-7
Preferences	00 3000-7
License or Royalty Fees	00 3000-7
Permits	00 3000-8
Collusion	00 3000-8
Quantities	00 3000-8
Protest Procedure	

TITLE	PAGES
Contractor's Qualification Statement	00 3000-8
Bond Requirements –Performance and Payment Bonds	00 3000-8
Time of Delivery and Form of Bonds	00 3000-8
Warranty	00 3000-9
Notice of Award	00 3000-9
Identical Bids	00 3000-9
Cancellation of Award	00 3000-9
Notice to Proceed	00 3000-9
Failure to Execute Contract	00 3000-9
Insurance Requirements	00 3000-9
Clarification of Non-Collusion Affidavit of Subcontractor, and Certification of Subcontractor Regarding Equal Employment Opportunity	00 3000-9
Subcontractor Performance and Payment Bond	00 3000-9
Operations and Maintenance Manuals	00 3000-10
Notice	00 3000-10
Sufficient Appropriations	00 3000-10
Number of Bids Accepted	00 3000-10
Double-Sided Documents	00 3000-10
BID FORMS	00 40000
Bid Proposal	00 4000-1
Bid Form	00 4000-3
Bid Sheet	00 4000-5
CONTRACT FORMS, BONDS, AND CERTIFICATES	00 50000
Non-Collusion Affidavit of Prime Bidder	00 5000-1
Non-Collusion Affidavit of Subcontractor	00 5000-2
Certification of Non-Segregated Facilities	00 5000-4
Certification of Bidder Regarding Equal Employment Opportunity	00 5000-5
Certification of Subcontractor Regarding Equal Employment Opportunity	00 5000-6
Bid Bond	00 5000-7
Subcontractor Listing	00 5000-8
APPENDICES	
A. Acknowledgement of Receipt of Invitation for Bids Form	
B. Campaign Contribution Disclosure Form	
C. Resident Veterans Preference Certification	

ATTACHMENT 1

PROJECT ASSIGNMENT SCOPE OF WORK AND PROJECT SCHEDULE

Project Name: _____
Project Number: _____
Project Location: _____
Project MACC: _____

SCOPE OF WORK

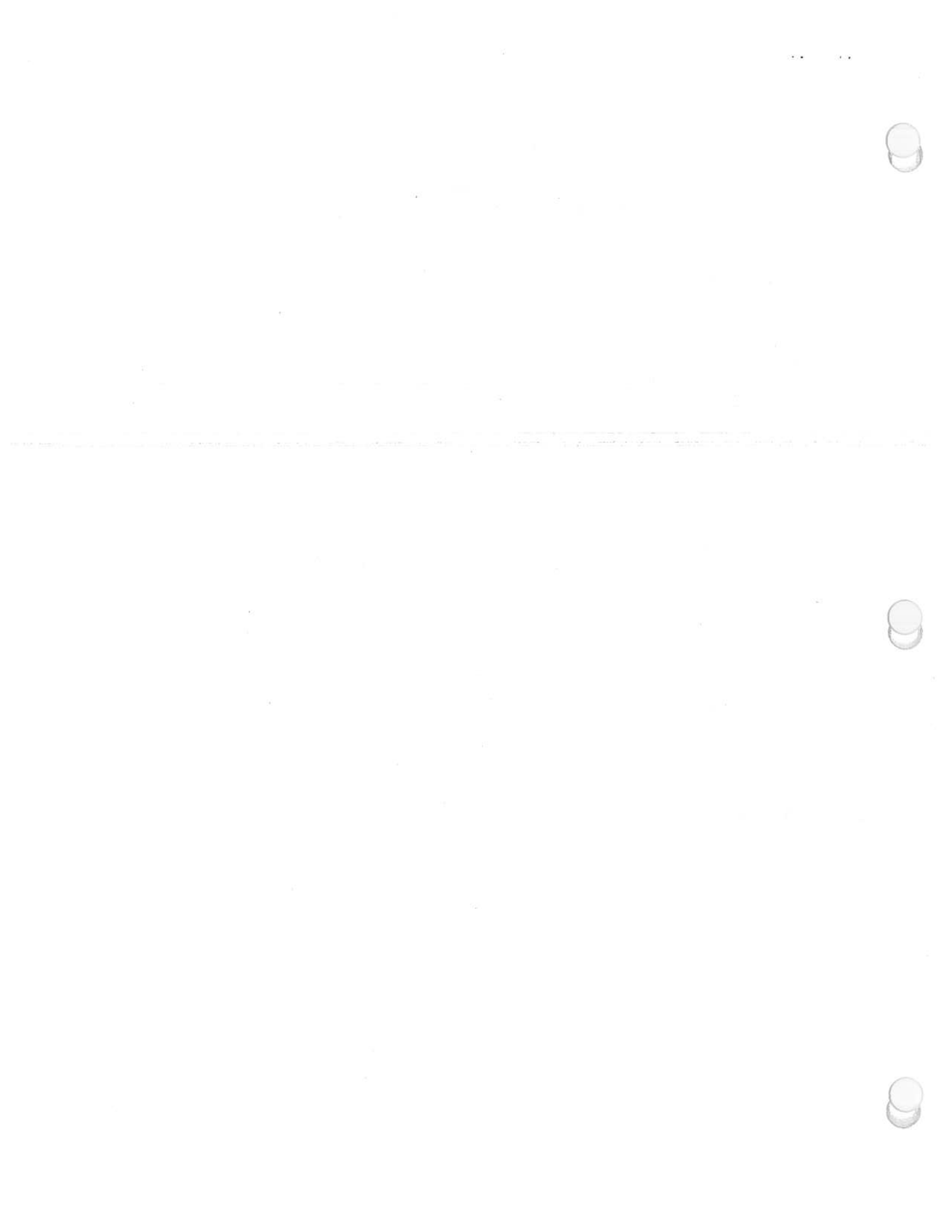
A. **Basic Services:** The project includes architectural design and related services to include: (Insert Scope of Work)

B. **Additional Services:** Additional Services include, (List Services):

C. Project Schedule

BASIC SERVICES		COMPLETION DATE
Programming Phase	10%	Date or Weeks*
Schematic Phase	15%	Date or Weeks
Design Development Phase	20%	Date or Weeks
Construction Document Phase	25%	Date or Weeks
Bidding and Negotiation Phase	3%	Date or Weeks
Construction Phase	22%	Date or Weeks
Project Closeout	3%	Date or Weeks
11 Month Inspection Phase	2%	Date or Weeks

*In lieu of dates duration in weeks may be substituted.



ATTACHMENT 2
AUTHORIZATION TO PROCEED
(SAMPLE)

Date: _____

To: _____

RE: Authorization to Proceed – (Insert Project Name/Number/Location

Dear _____:

As project manager for this project, I am pleased to inform you that (insert architect) has been chosen to provide the architectural services for (insert project). This letter will serve as your Authorization to Proceed with the architectural services for this project. The County would like to schedule a meeting prior to the commencement of services at (insert location). Please contact me to schedule a mutually acceptable date and time. A copy of the purchase order (# ____) is attached for your records. Please ensure that all invoices or requests for payments contain this PO number for reference.

If you have any questions, you can contact me at (insert phone number) or by email at (insert email address).

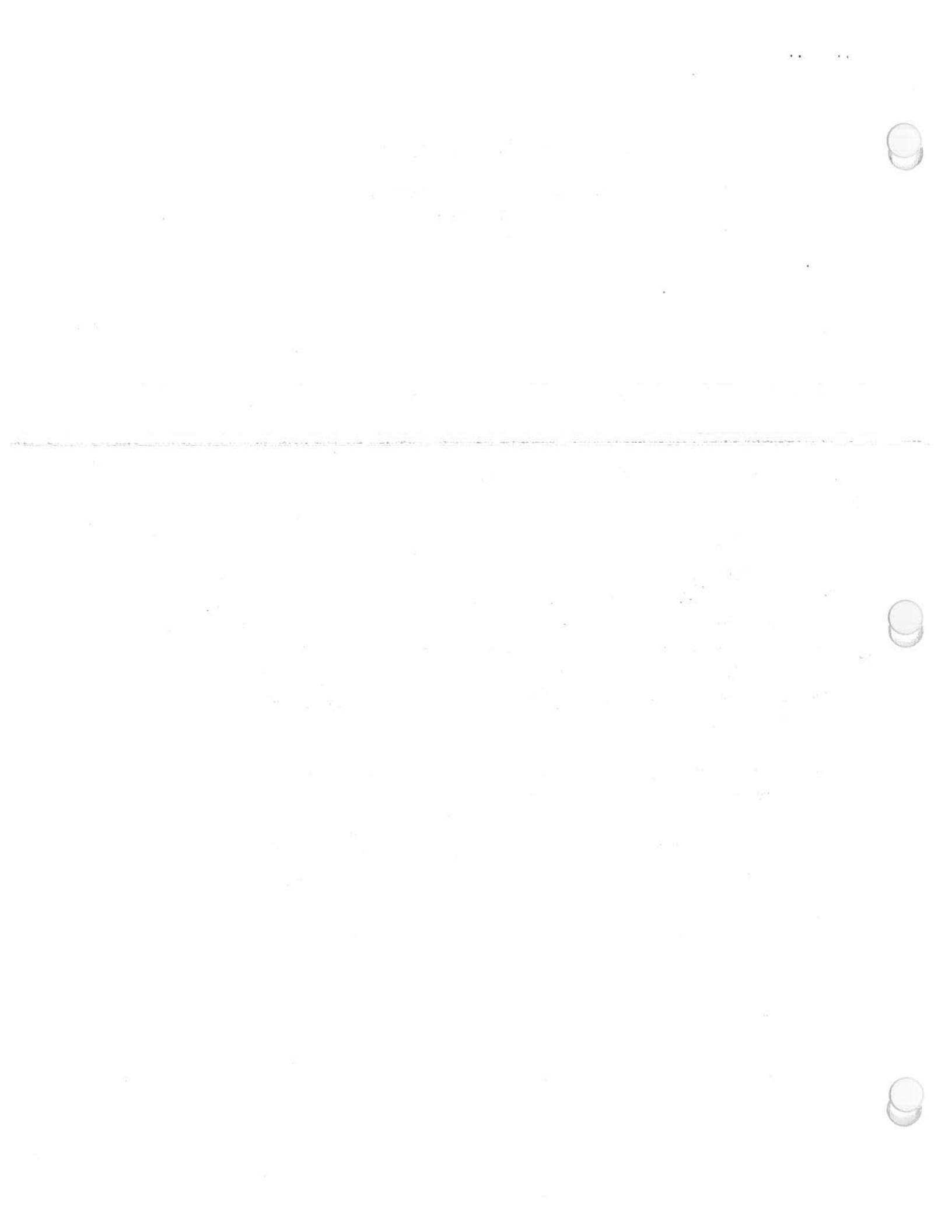
On behalf of Santa Fe County, I would like to thank you for your participation in this solicitation and look forward to working with you and your company on this important County project.

Sincerely,

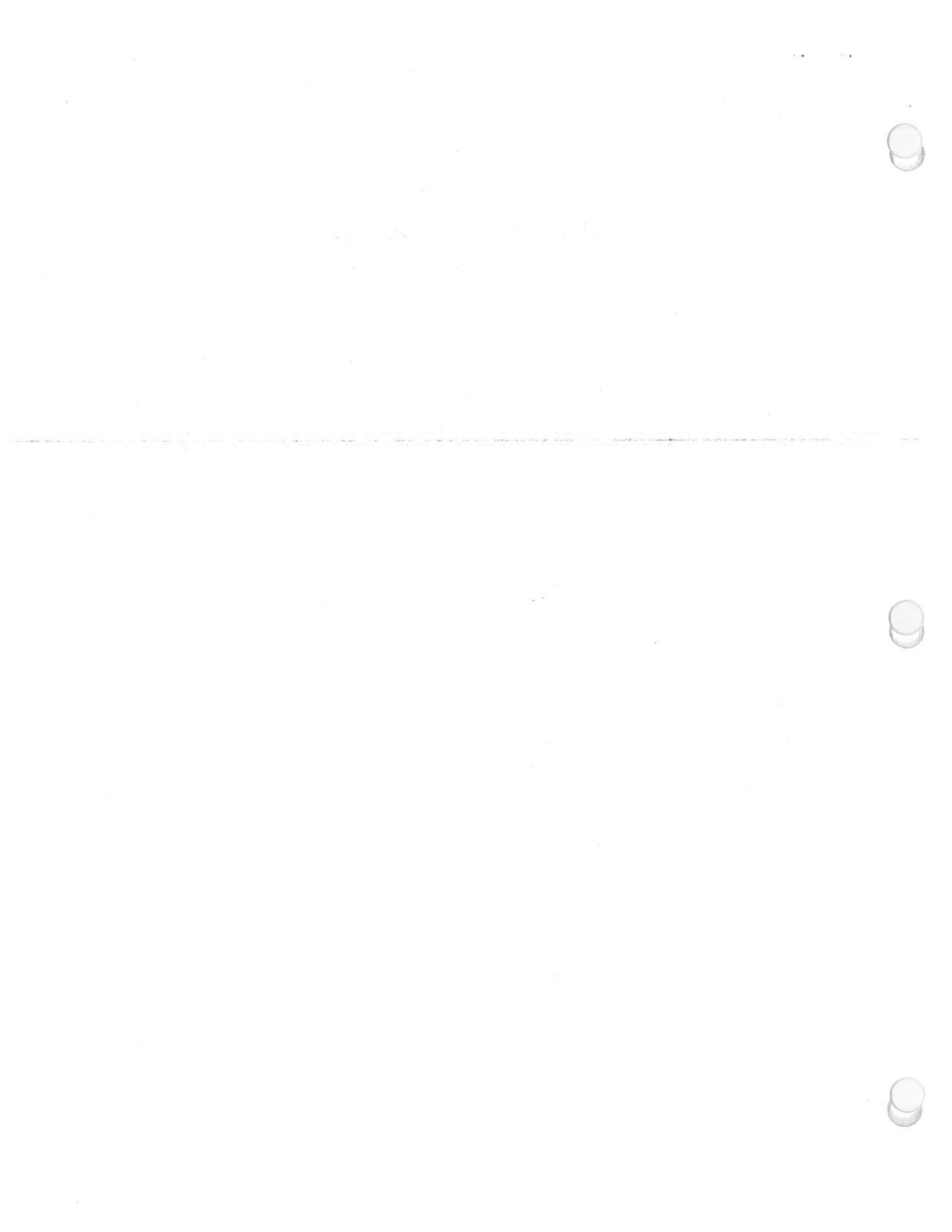
(Insert Name/Title)

(Insert Department)

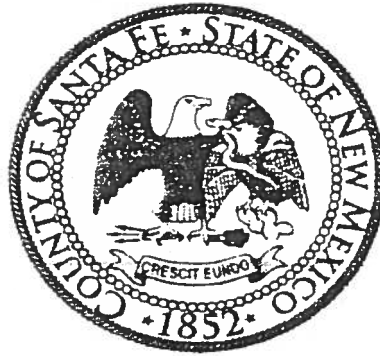
Santa Fe County



ATTACHMENT 3
ARCHITECT
HOURLY RATE FEE SCHEDULE



**GENERAL TERMS AND CONDITIONS OF THE AGREEMENT
BETWEEN SANTA FE COUNTY
AND ARCHITECT
FOR PROFESSIONAL ARCHITECTURAL SERVICES**



**SANTA FE COUNTY
ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING DIVISION**

2013 EDITION, PART B of Two Parts

Changes, additions, deletions and/or any modifications other than those agreed upon execution of this contract, without the written consent of Santa Fe County shall render this document null and void.

1. SCOPE OF WORK

Architect shall provide the services set forth in Part A Section 2 (Scope of Work) of this Agreement and as provided in Exhibit A.

2. EFFECTIVE DATE AND TERM

The Agreement shall, upon due execution by all parties, become effective as of the date first written in Part A and shall terminate one (1) year later with an option to renew an additional three (3) years, for a total of no more than four (4) years, unless earlier terminated pursuant to Section 4 (Termination) or Section 5 (Appropriations and Authorizations) of these General Terms and Conditions.

3. ADDITIONAL SERVICES

- A. The parties agree that all tasks set forth in Section 1, (Scope of Work) above and Section 5 (Basic Services) of Part A of the Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 4 (Compensation,

Invoicing, and Set-Off) of Part A of this Agreement, and for no other cost, amount, fee, or expense.

- B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Architect, shall be incorporated in written amendments to this Agreement.

4. TERMINATION

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised then non-breaching party in writing that it intended to cure.
- B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Architect written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Architect's receipt of the notice. The County shall pay the Architect for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work or service performed after the effective date of termination.
- C. In the event of termination, all finished or unfinished documents, data, sketches, calculations, estimates, records, schedules, studies, drawings, maps, models, photographs, reports, and such other information and data accumulated in the performance of services under this Agreement, whether complete or in progress, prepared by the Architect under this Agreement shall become the County's property, and the Architect shall be entitled to receive compensation for actual work satisfactorily completed hereunder, including reimbursable expenses authorized by the County which are then due.

5. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Santa Fe Board of County Commissioners and/or, if state

funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Architect. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Architect for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Architect in any way or forum, including a lawsuit.

6. INDEPENDENT CONTRACTOR, SUBCONTRACTING AND PERSONNEL

- A. Independent Contractor. The Architect and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Architect and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Architect has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.
- B. Subcontracting. The Architect shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.
- C. Personnel.
 - 1) All work performed under this Agreement shall be performed by the Architect or under its supervision.
 - 2) The Architect represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

7. ASSIGNMENT

The Architect shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without County's advance written approval shall be null and void and without any legal effect.

8. RELEASE

Upon its receipt of all payments due under this Agreement, Architect releases County, its Elected Officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

9. CONFIDENTIALITY

Any confidential information provided to or developed by the Architect in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Architect without prior approval from the County.

10. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT

County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement. To the extent any material is copyrightable; the County shall own such copyright.

11. CONFLICT OF INTEREST

Architect represents that it has no and shall not require any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under the Agreement.

12. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

The Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Architect specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 2 (Scope of Work), Part A of the Agreement unless such changes are set forth in a duly executed written amendment to the Agreement.

13. ENTIRE AGREEMENT; INTEGRATION

The Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into the written Agreement. No prior or contemporaneous agreement, covenant or understandings verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

14. EXHIBITS AND ATTACHMENTS: INCORPORATION BY REFERENCE

All exhibits, attachments, riders, and addenda referred to in the Agreement, including but not limited to the Exhibits referred to in this Agreement, as listed in Paragraph 27 EXHIBITS and Paragraph 28 ATTACHMENTS, in Part A of this Agreement, are hereby incorporated into this

Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

15. NOTICE OF PENALTIES

The Procurement Code, Section 13-1-28 through 13-1-199 NMSA 1978 imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

16. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

- A. Architect agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, Architect specifically agrees not to discriminate against any person with regard to employment with Architect or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. Architect acknowledges and agrees that failure to comply with this Section shall constitute a material breach of the Agreement.

17. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

- A. In performing its obligations hereunder, Architect shall comply with all applicable laws, ordinances, and regulations.
- B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules.

18. RECORDS AND INSPECTIONS

- A. To the extent their books and records relate to (i) their performance of the Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in the Agreement or that was required to be submitted to County as part of the procurement process, Architect agrees to (i) maintain such books and records during the term of the Agreement for a period of six (6) years from the date of final payment under the Agreement; (ii) allow County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").
- B. To the extent their books and records relate to (i) their performance of the Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data

(if any) set forth in the Agreement or that was required to be submitted to County as part of the procurement process, Architect also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of the Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow county or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in with GAAP.

19. INDEMNIFICATION

- A. Architect shall indemnify and hold harmless County and its Elected Officials, agents, and employees from any losses, liabilities, damages, causes of action, costs or expenses including attorney's fees, attributable to bodily injury, sickness, disease, or death, or to injury to persons or property including loss of use, caused directly or indirectly by the negligent act or failure to act by Architect, or by Architect's officers, employees, consultants or anyone for whom the Architect is legally liable, or Architect's breach of any representation or warranty made herein.
- B. Architect agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Architect in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.
- C. Architect's obligations under this section shall not be limited by the provisions of any insurance policy Architect is required to maintain under this Agreement.

20. SEVERABILITY

If any term or condition of the Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of the Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

21. NOTICES

Any notice required to be given to either party by the Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Santa Fe County
Office of the County Attorney
102 Grant Avenue
Santa Fe, New Mexico 87501

To the Architect: Lorn Tyrk Architects, P.C.
206 McKenzie Street
Suite F-2
Santa Fe, New Mexico 87501

22. ARCHITECT'S REPRESENTATIONS AND WARRANTIES

The Architect hereby represents and warrants that:

- A. This Agreement has been duly authorized by the Architect, the person executing this Agreement has authority to do so, and, once executed by the Architect, this Agreement shall constitute a binding obligation of the Architect.
- B. This Agreement and Architect's obligations hereunder do not conflict with Architect's corporate agreement or any statement filed with the Public Regulation Commission on Architect's behalf.
- C. Architect is legally registered and licensed to operate as a business in New Mexico and to do the work anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

23. LIMITATION OF LIABILITY

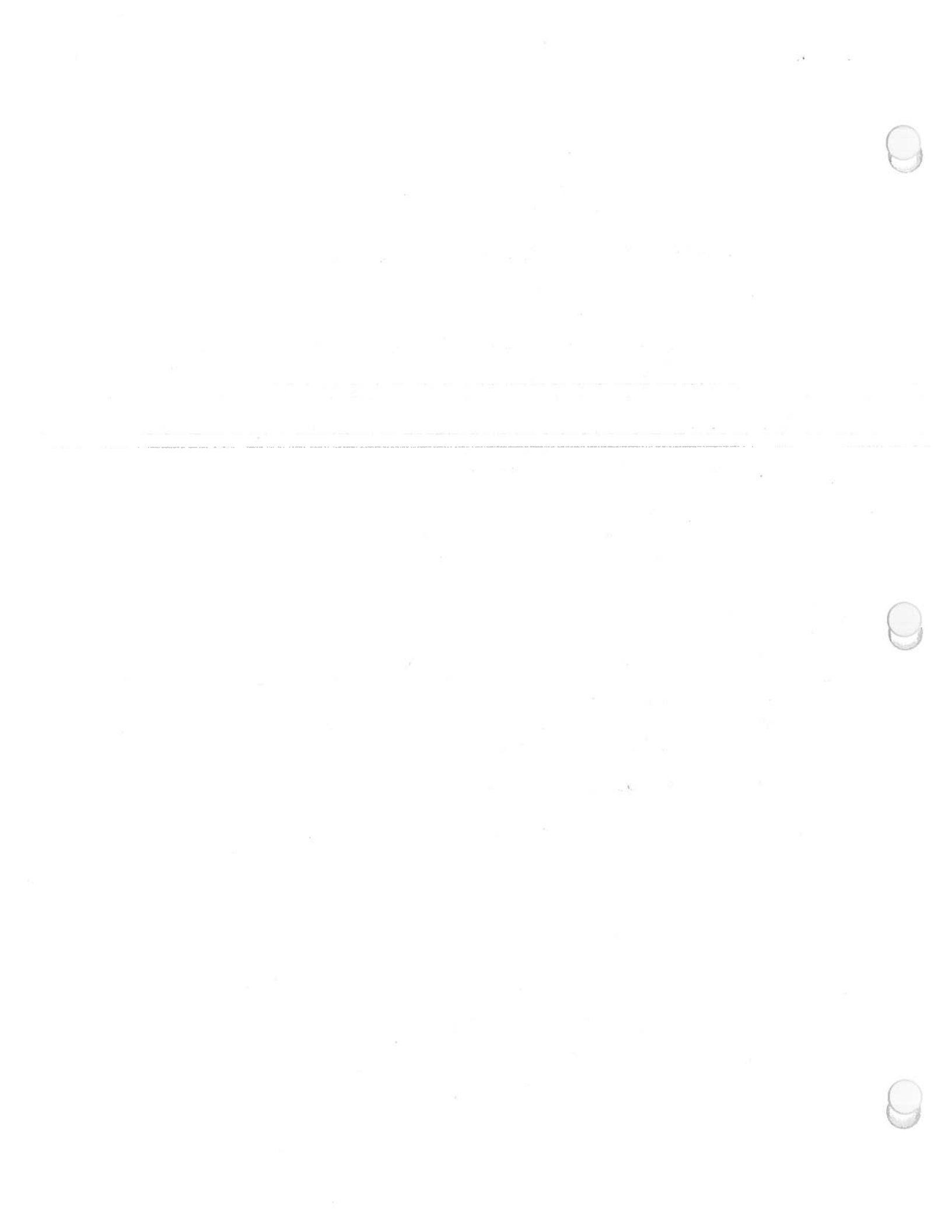
County's liability to Architect for any breach of this Agreement by County shall be limited to direct damages and shall not exceed the maximum amount of compensation specified in Section 4, (Compensation and Invoicing) Part A, of the Agreement. In no event shall County be liable to Architect for special or consequential damages, even if County was advised of the possibility of such damages prior to entering into the Agreement.

24. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party to the Agreement.

25. INSURANCE

- A. General Conditions. Engineer shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. Engineer shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy and liability limits in amounts not less than \$1,000,000 combined single limits of bodily injury, including death, and property damage for



any one occurrence. Said policies of insurance shall include coverage for all operations performed for County by Engineer; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off work; and contractual liability coverage under which this Agreement is an insured contract. Santa Fe County shall be named additional insured on the policy.

- C. Workers' Compensation Insurance. Engineer shall comply with the provisions of the Workers' Compensation Act.
- D. Malpractice/Errors and Omissions Insurance. Engineer shall procure and maintain during the life of this Agreement professional liability (errors and omissions) insurance with policy limits of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 per aggregate.
- E. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), Engineer shall increase the maximum limits of any insurance required herein.

26. PERMITS, FEES, AND LICENSES

Architect shall procure all permits and licenses, pay all charges, fees and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

27. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

28. NEW MEXICO TORT CLAIMS ACT

No provision of the Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees: at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

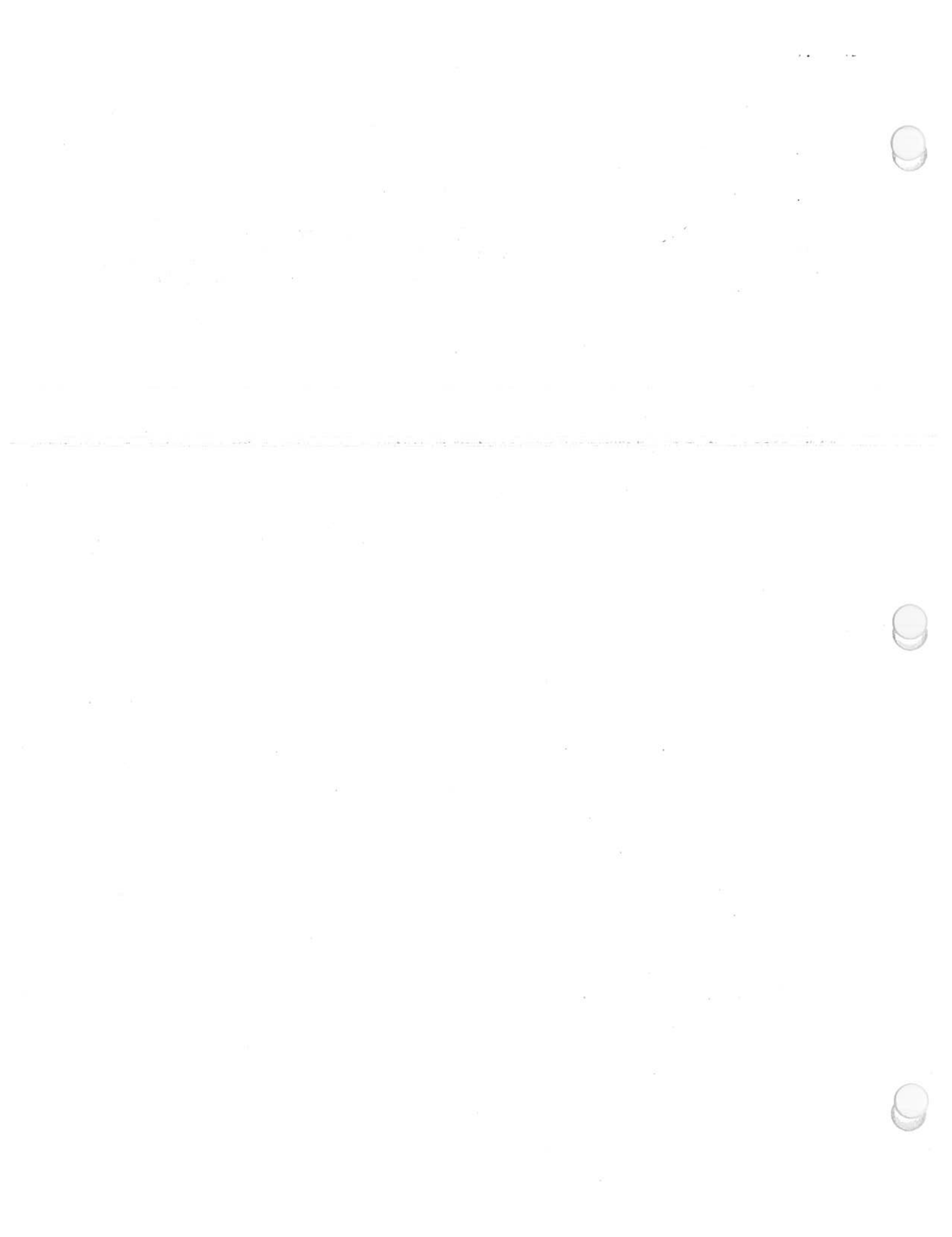
29. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Architect agrees to compute and submit simultaneous and execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

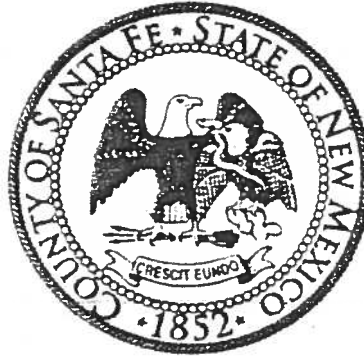
30. SURVIVAL

The provisions of following paragraphs shall survive termination of the Agreement:

INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.



AGREEMENT BETWEEN SANTA FE COUNTY AND ARCHITECT FOR PROFESSIONAL ARCHITECTURAL SERVICES



SANTA FE COUNTY ADMINISTRATIVE SERVICES DEPARTMENT

PURCHASING DIVISION

2013 EDITION, Part A of Two Parts

Changes, additions, deletions and/or any modifications other than those agreed upon execution of this contract without the written consent of Santa Fe County shall render this document null and void.

THIS AGREEMENT is made and entered into on this ____ day of _____, 2013, by and between SANTA FE COUNTY (hereinafter referred to as the "County"), a New Mexico political subdivision, and LEE GAMELSKY ARCHITECTS, P.C., an incorporated company licensed to do business in the State of New Mexico, (hereinafter referred to as the "Architect").

Hereinafter "County":

Santa Fe County
PO Box 276
102 Grant Avenue
Santa Fe, New Mexico 87504-0276
TELEPHONE: 505-986-6200

Hereinafter "Architect":

Lee Gamelsky Architects, P.C.
2412 Miles Road SE
Albuquerque, New Mexico 87106
TELEPHONE: 505-842-8865

RECITALS

WHEREAS, Santa Fe County has identified a need for On-Call Architectural and Engineering Services to be provided on an "as-needed" basis for a variety of projects throughout the County as funding becomes available and as specific needs are identified;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112, competitive sealed proposals were solicited via a formal Request for Proposal, RFP No. 2014-0131-PW/PL for these services;

WHEREAS, Santa Fe County has selected multiple qualified and experienced architectural professionals to assist the County in a variety of building and renovation design projects pursuant to NMSA 1978, Section 13-1-154;

WHEREAS, based upon the evaluation criteria established within the request for proposals for the purpose of determining the most qualified Offerors, the County has determined the Architect as one of the most responsive and highest rated Offerors;

WHEREAS, the County requires the services of the Architect, and the Architect is willing to provide these services and both parties wish to enter into this Agreement.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. PROJECT DESCRIPTION

The Project is to provide on-call design and other related architectural services for a number of projects on an "as needed" basis determined by the County. The County, at its sole discretion, shall determine what projects are assigned to the Architect. During the term of the Agreement, Project Assignment (Attachment 1) that includes a detailed Scope of Work and Project Schedule will be issued to the Architect by the County. Upon receipt of a Project Assignment, the Architect will be required to submit Exhibit A, Compensation and Schedule form and Exhibit F, Consultant List, if acceptable to the County, the Architect will receive written Authorization to Proceed (Attachment 2).

2. SCOPE OF WORK

- A. The Scope of Work as determined by the County will be included at time of issuance of each written project assignment to the Architect.
- B. Architectural services may include, but not limited to, the following:

- 1) *Evaluation & Planning Services*

- Programming
- Functional relationships/flow diagrams
- Existing facilities surveys
- Conditions assessments
- Marketing studies
- Economic feasibility studies
- Project financing
- Site analysis, selection and development planning
- On-site and off-site utility studies
- Environmental studies and reports
- Zoning review

2) *Design Services*

- Code review
- Civil design
- Landscape design
- Architectural design
- Interior design
- Structural design
- Mechanical design
- Electrical design
- Solar design
- Leeds and sustainable design
- Materials research and specifications
- Cost Estimating
- Architectural renderings/models

3) *Bidding and Negotiation Services*

- Bidding documents
- Attendance pre-bid conference
- Addenda/responding to bidder inquiries
- Bidding/Negotiation
- Analysis of alternates and substitutions
- Bid evaluation

4) *Contract Administration Services*

- Submittal services
- Review of Pay Applications
- On-site inspection of work

- Testing and inspection administration
- Supplemental documentation
- Quotation requests/change orders
- Contract cost accounting
- Furniture & equipment installation administration
- Interpretations & decisions
- Project close-out

5) *Facility Administration Services*

- Maintenance and operational programming
- Startup assistance
- Record drawing
- Warranty review
- Post contract evaluation

3. BASIS FOR COMPENSATION

The fee for basic services generally is based on a percentage of the Maximum Allowable Construction Cost (MACC) as may be adjusted by building type, design complexity, and Scope of Work. The MACC for the purpose of calculating the fee for basic services is not adjusted at the time of construction contract award. If, at any time, the MACC and/or the percentage are changed by amendment to the Agreement, the basic services fee shall be adjusted as appropriate. No fee adjustment shall be made for phases already completed.

4. COMPENSATION, INVOICING, AND SET-OFF

- A. In consideration of its obligations under this Agreement the Architect shall be compensated as follows:
- B. County shall pay to the Architect in full payment for services satisfactorily performed and all costs and expenses shall be in accordance with Exhibit A Compensation and Schedule.
- 1) The total amount payable to the Architect under this Agreement shall not exceed Five Hundred Thousand Dollars (\$500,000.00) exclusive of gross receipts tax. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Architect;
 - 2) This amount is a maximum and not a guarantee that the work assigned to be performed by Architect under this Agreement shall equal the amount stated herein. The parties do not intend for the Architect to continue to provide services without compensation when the total compensation

amount is reached. The County will notify the Architect when the services provided under this Agreement reach the total compensation amount. In no event will the Architect be paid for services provided in excess of the total compensation amount without this Agreement being amended.

- C. The Architect shall submit a written request for payment, on the form attached hereto as Exhibit B Architect Pay Request Form, when payment is due under this Agreement within each phase of services. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. The Architect acknowledges and agrees that the County may not make any payment hereunder unless and until the County has issued a written certification accepting the contractual items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.
- D. In the event the Architect breaches this Agreement, the County may, without penalty, withhold any payments due the Architect for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.
- E. Payment under the Agreement shall not foreclose the right of the County to recover excessive or illegal payment.
- F. The Architect shall submit, with its billings at the completion of the Project, certification that payment has been made to all consultants, suppliers, and others for materials and services required by this Agreement.
- G. No deductions or withholdings shall be made from the Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to Contractors, or on account of the cost of changes in the Work other than those for which the Architect may be legally liable in accordance with this Agreement.
- H. In the event the County receives Notice from any person, Consultant, Sub consultant, or other third party, that the Architect has failed to pay such person(s) for Work performed in accordance with Agreements, the Architect shall, at the request of the County, and in no more than ten (10) calendar days, provide all documentation the County believes necessary to determine whether such payment is due, or reasons for non-payment of disputed amounts. In the event the County

determines the claim to be valid and payment is due, or in the absence of aforementioned documentation, the County may authorize direct payment of any unpaid bills, withholding from the Architect's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such claims until satisfactory documentation is furnished that all liabilities have been fully discharged or reasons for non-payment of disputed amounts are provided by the Architect. In no event shall these provisions be construed to impose any obligation upon the County to the Architect.

- I. In the event of termination or suspension of the Project due to the fault of parties other than the Architect, the Architect shall be compensated for services performed to the date of termination.

5. BASIC SERVICES

The Architect shall perform professional services including basic architectural, landscaping architecture, interior design, structural, mechanical, civil and electrical engineering services. The Architect shall represent that all tasks will be performed in accordance with generally acceptable professional standards and further represent that the advice and consultation provided shall be within the Architect's authority and capacity. The Architect shall comply with the regulations, laws, ordinances and requirements of all levels of government applicable to any assigned project.

The services to be provided during each phase listed herein includes all consulting services required by the Architect to provide the professional architectural and engineering services incidental to the design and construction of the Project. The intent of this Agreement is to design completely functional and operational facilities within the identified scope of work and cost limitation.

The Architect's Basic Services shall consist of the following:

- A. Programming Phase. This phase involves the collection of facts, identifying concepts, analyzing the site and determining the proper operational needs of the agency. Based on the data provided by the County and pursuant to consultation with the County, the Architect shall prepare a document that defines the scope of the project. The programming document shall reflect the limits of the maximum allowable construction costs (MACC) and provide an estimated duration for construction.
 - 1) The Architect shall include in the program document the results of site investigation and the field verification of any information provided by the County.
 - 2) The County shall work with the Architect to ensure that the information required by the County is made available to the Architect. This

information and other requests concerning organization of functions shall be provided in the form of a written memorandum.

- 3) The County shall schedule a meeting between the Architect and the County's Department representative to define the relationship among all parties. The Architect shall advise the County, in writing, of any information required which has not been provided by the County and/or any conflicts between the established program requirements, and the MACC.
- 4) The Architect shall obtain the approval of the County, in writing, of the Program Phase before commencing work on the Schematic Design Phase. The Architect shall provide written confirmation, to be transmitted with the Program Document to the County, that the Architect has visited the site, familiarized itself with the local conditions under which the work is to be performed, correlated its observations with current code requirements and life safety needs, and has a clear understanding of existing conditions for the Project.

B. Schematic Phase. Upon completion of the Programming Phase the Architect shall produce studies consisting of drawings and other documents necessary to illustrate the general planning concepts, probable architectural, engineering, and building systems, materials and preliminary alternatives, a breakdown of the budget on current area, volume, or other unit costs, and the approximate dimensions of the programmed areas. The number of iterations of such studies produced shall be sufficient to accomplish and demonstrate a design concept for the Project that is satisfactory to the County. The Architect shall incorporate in the Schematic Design Drawings and documents the provisions of Green Building Standards and current State-adopted Building Code and current ASHRAE 90.1 are incorporated herein by reference. Where applicable, the provisions of these documents shall apply. The Architect shall brief, and obtain the written approval from the County for the Schematic Design Drawing and documents. This review and approval shall include the life cycle costs. The Architect shall obtain the written approval of the County of one of the proposed design schemes, as modified by any comment during review, before commencing work on the Design Development Phase.

- 1) The Architect shall provide a feasibility report as part of this phase on the energy sources other than fossil fuels for the heating and air conditioning of the proposed building, if applicable.
- 2) The Architect shall request site survey data from the County.
- 3) The responsibility for bringing the Project within the MACC and

compliance with construction directives remains with the Architect. Should the Architect at any time conclude that the budget and the scope of the work to be accomplished are incompatible, the County shall be notified immediately in writing, with proposed recommendations to reconcile the incompatibility.

- C. Design Development Phase. Upon completion of the Schematic Phase, the Architect shall prepare the Design Development Documents consisting of drawings, outline specifications, and other documents to fix and describe the size and character of the entire project as to civil, structural, mechanical, plumbing, and electrical systems materials and such other design essentials as may be appropriate. Additionally, these documents shall identify design features, program modifications, the probable Project Schedule, equipment installed in the Project or furnishings required, and a statement that identifies the need for any additional data, surveys, or tests. The Architect shall provide sufficient, alternative design solutions on major design features to allow the County to ascertain that the recommended design achieves practical programmatic and economic solutions, within the limitations of the authorized program, schedule, and budget; include staffing and occupancy considerations provided by County. The Architect shall acquire the approval, in writing, of the County of all documents associated with the Design Development Phase before commencing work on the Construction Documents Phase.

- 1) The Architect shall submit to the County for review and written approval a refined statement of Probable Construction Cost at the completion of the Design Development Phase. Should the Architect conclude, at any time, that the budget and the scope of work to be accomplished are incompatible; the County shall be notified immediately in writing, with proposed recommendations to reconcile the incompatibility.
- 2) Should the County initiate or require a material change from the approved Design Development Documents and there is no fault or responsibility of the Architect related to the County's initiation or requirement of the change, the Architect's efforts implementing said change(s) shall be compensated as an Additional Service and the schedule of delivery of the Architect's services shall be equitably adjusted if/as appropriate.

- D. Construction Document Phase. Upon the completion of the Design Development Phase, the Architect shall prepare and complete the Construction Documents based upon information contained in the Design Development drawings and other documents approved by the County. These Construction Documents shall provide the detailed requirements for the construction of the entire project.

- 1) The Construction Documents shall include written and graphic elements

indicating contracting requirements, specifications and contract drawings. If Architect is to provide professional design services, layouts of equipment or certifications related to systems, materials or equipment that are not included in these Construction Documents, the Architect shall clearly define and identify such services and specify all performance and design criteria that such services must satisfy within the Construction Documents. The County or the Architect shall not be responsible for the adequacy of the performance or design criteria specified by the Architect and required by the Construction Documents.

- 2) In preparing the Construction Document, the Architect shall, as directed by the County, prepare the necessary bidding information, bidding forms, and the project manual, which shall include the Conditions of the Contract for Construction (general, supplementary, and other conditions of the contract), and the Standard Form of Agreement between County and Contractor. The Architect shall incorporate in the Invitation for Bid (IFB) documents the provisions for Index to Bidding as provided as Exhibit H.
- 3) The Invitation for Bid shall be prepared by the Architect as directed by the County, and shall include the bid date, location and time, which shall be prepared by the County and Architect and submitted to the County's Purchasing Division during the Bidding Phase. The Architect shall assist the County in filing the required documents for the approval of any governmental or other authorities having jurisdiction over the Project assigned.
- 4) Construction Drawings: In addition to the electronic CAD files, PDF files and related electronic documents, the Architect shall provide three (3) full drawing sets to the County. Hand-drawn drawings, when approved in advance by the County, shall be prepared non-glossy polyester film 3-ml thickness minimum. Standard sheet sizes may be architectural sizes 24" x 36" or 30" x 42".
- 5) Electronic Data: The County requires that final Construction Documents and Specifications are prepared using computer technology in the formats prescribed in paragraph 12 "software requirements".
- 6) Only materials and systems available at the time of this Agreement or reasonably believed to become available prior to the expiration of the Construction Contract shall be specified in the Contract Documents. The Bidding or RFP Documents shall include a list of those items (or categories of items) for which shop drawings or submittals are required.

- 7) The Architect shall furnish Bidding Documents to the County bearing the approval of the following:
 - a. Construction Industries Division, Regulation and Licensing Department,
 - b. Santa Fe County Technical Review Division,
 - c. If applicable: Occupational Health and Safety Bureau; Environmental Protection Division; Environment Department,
 - d. If applicable: The Health Facility Licensing and Certification Bureau; Health Improvement Division; Department of Health,
 - e. If applicable: N.M. Environment Department; N.M. Energy, Minerals and N.M. Natural Resources Department and N.M. Department of Information Technology and Infrastructure Voice Radio (IVR).
- 8) The Architect shall provide a signature-approval block on the front sheet of the drawings and specifications for the following and obtain signatures of the following:
 - a. Santa Fe County,
 - b. Utility companies (as appropriate),
 - c. Design Professional Certification: Project meets as a minimum – current ASHRAE 90.1 requirements,
 - d. Department of Information Technology, IVR (as appropriate).
- 10) Project Wage Determination: The Architect shall, as directed by the County, request from the State of New Mexico Labor and Industrial Division, Workforce Solutions a minimum wage rate determination for the Project pursuant to Section 13-1-11, NMSA 1978. The Architect shall provide the Division a description of the Project, as estimate of construction cost, an approximate bid or proposal opening date, and any other pertinent information required by the Labor and Industrial Division. The Architect shall include a wage rate determination in the Bidding or RFP Documents. Federally funded projects will required both state and federal wage rates.
- 11) Upon completion of the Construction Documents, the Architect shall brief the County on the Bidding Documents, specifically addressing previous County concerns and requirements. At this briefing, the Architect shall furnish the County a final and detailed statement of probable construction cost, including an updated Project schedule. The Architect shall pay any fees incurred in the preparation of the detailed cost estimate provided by the Architect.

- 12) The responsibility of bringing the Project within the Maximum Allowable Construction Cost (MACC) and compliance with construction directives remains with the Architect. Should the Architect at any time conclude that the budget and the scope of work to be accomplished are incompatible; the County shall be notified immediately in writing, with proposed recommendations to reconcile same.
- 13) The Architect shall return all original documents and drawings provided by the County to the County upon the County's request, but in no case later than when the Construction Documents Phase has been completed. Payment for the Construction Documents Phase will not be made to the Architect until the County has received said documents and drawings.
- 14) The Architect shall acquire the approval, in writing, of the County of all documents, and any and all bid alternates, associated with the Construction Documents Phase before commencing work on the Bidding Phase.

E. Bidding and Negotiation Phase. The Architect, following the County's written approval of the Bidding Documents, shall assist the County in obtaining bids and in awarding and preparing contracts for construction, as directed by the County. The finalized Invitation for Bid for Construction shall be prepared by the County and forwarded to the Architect for bidding purposes and the County shall issue a purchase order authorizing the advertisement for the Project.

- 1) The Architect shall provide sets of Bidding Documents as required to the County, and sets as appropriate to all Bidders requesting documents for bidding purposes. Prime bidders shall be defined as General Contractors, who will be allowed no more than three sets; major subcontractors as listed in the form, or other suppliers.
- 2) The Architect shall, as directed by the County, provide an additional number of documents to be placed in plan rooms as well as in the Architect's office for review by prospective Bidders.
- 3) The Architect shall also make sets available to other prospective parties as requested. The Architect may charge the cost of reproduction to the party requesting the documents.
- 4) The Architect shall clarify and answer any questions about the Bidding Documents, as directed by the County, during the bidding process and shall issue Addenda as required to all Bidders, and the County.

- 5) All Addenda, including all revised drawings and sections, must be approved by the County prior to distribution. The Architect shall allow sufficient time for County to review and accept each addendum.
- 6) The Architect shall provide assistance to the County to identify the apparent successful bidder(s) and shall provide written recommendation to accept or reject the bids.
- 7) The Architect shall not discuss with bidders, news media, etc., any presumption of award until the award is decided by the County.

F. Construction Phase-Administration of the Construction Contract. The Construction Phase will commence with the award of the contract for construction and continue until the eleven month inspection and report is submitted by the contractor and approved by the County.

- 1) The Architect shall provide administration of the construction contract as required and defined in the Conditions of the Contract for Construction. The extent of the Architect's duties and responsibilities and the limitations of its authority thereunder shall not be modified without the County's written consent.
- 2) The Architect shall be the representative of the County during the Construction Phase and shall advise and consult with the County. Instructions to the Contractor shall be forwarded only through the Architect. The Architect shall have authority to act on behalf of the County only to the extent provided in the Contract Documents and any amendments thereto.
- 3) The Architect shall at all times have access to the Work, whether it is in preparation or progress.
- 4) The Architect shall submit to the County, for approval, a list of critical inspection points based upon the construction schedule furnished by the Contractor. The Architect shall make periodic visits to the site at such times as appropriate during the progress of the Work for the purposes of notifying the County on the progress and condition of the Work and adequately represent the County. Additionally, the Architect shall familiarize itself with the progress and quality of the Work and determine if the Work is proceeding substantially in accordance with the Contract Documents. On the basis of on-site observations, the Architect shall endeavor to guard the County against defects and deficiencies in the construction. Should the Architect determine that any portion of the

Work varies from the requirements of the Contract Documents, the Architect shall immediately notify the Contractor and the County of the nature of the work required to correct such non-compliance.

- 5) The Architect shall provide a minimum of weekly on-site observation during the construction phase in an attempt to guard the County against defects and deficiencies in the construction, in addition to critical inspections and other reviews and evaluations required by the progress of the Work. The results of all on-site observations shall be documented in field reports submitted to the County within seven (7) days of each such site visit.
- 6) The Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, for acts or omissions of the Contractor, subcontractors, or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.
- 7) The Architect shall determine, certify, and make recommendations to the County for payment for the amounts owing to the Contractor subject to the County's approval, based on observations at the site and evaluations of the Contractor's Applications for Payment. The Architect shall issue Certificates for Payment in such approved amounts as provided in the Contract Documents.
- 8) The issuance of a Certificate and recommendation for payment shall constitute representation by the Architect to the County, based on the Architect's observations at the site as provided in subparagraph 4) above and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that the quality of the Work is substantially in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications state in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the Contractor has used the money paid on account of the Contract Sum.
- 9) The Architect shall render interpretations of the documents necessary for

the proper execution or progress of the Work with reasonable promptness on written request of either the County or the Contractor, and shall render written decisions within a reasonable time on all claims, disputes, and other matters in questions between the County and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents.

- 10) Interpretations and decisions of the Architect shall be consistent with the requirements and intent of the Contract Documents and shall be in written or graphic form.
- 11) The Architect's decisions in matters relating to artistic effect shall be final if consistent with the requirements of the Contract Documents.
- 12) The Architect shall have authority to reject work that does not conform to the Contract Documents. Where rejected Work is not promptly corrected, the Architect shall recommend to the County that the Work shall stop. Whenever, in the Architect's professional opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work be then fabricated, installed, or completed.
- 13) The Architect shall review the Contractor's submittals, such as shop drawings, product data, and samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents; and, for each submittal, the Architect shall designate in writing that the Architect:
 - a. Takes no exception to this submittal
 - b. Rejects the submittal
 - c. Requires corrections as noted by the Architect
 - d. Requires revisions and resubmitted to the Architect
 - e. Requires the Contractor to submit the specified item
 - f. Approves as corrected

Such action shall be taken with reasonable promptness so as to cause no delay. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

- 14) Necessary professional services or construction required to repair or overcome problems caused by the Architect's errors, omissions, inadequacies, or changes not authorized by the County in the preparation of the documents or design shall be the responsibility of the Architect or

its consultants, without additional cost to the County.

- 15) All Change Orders, defined in the Conditions of the Contract for Construction, shall be prepared by the Architect. Such Change Orders shall not become effective or binding on the County or Contractor until signed by the County and others whose signatures are required therein. Attached in Exhibit G and incorporated into this Agreement by reference is a copy of the Change Order form. Using this form, the Change Order shall be initiated by the party requesting a change. Approval in writing by the County of a completed Change Order modifies this Contract for construction to the extent indicated. No Work that could reasonably be expected to alter the contract price or materially alter the Project shall be undertaken until the County has approved a completed Change Order that outlines the desired change. Any deviation from the above described Change Order process shall be considered a material breach of this Contract. The County reserves the right to seek remedy from the Architect for Change Orders made necessary due to the Architect's errors and omissions.
- 16) Upon prior notice to the County, the Architect shall make observations to determine the Dates of Substantial Completion and Final Completion. The Architect shall obtain and forward to the County for the County's review of written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Architect shall then issue a final Certificate for Payment.
- 17) The extent of the duties, responsibilities, and limitations of authority of the Architect as the County's representative during construction shall not be modified or extended without written consent of the County and the Architect.
- 18) Should the Architect, its staff, or its consultants direct the Contractor, or its Subcontractors to undertake work for which additional compensation could reasonably be expected, and if such work is not:
 - a. An emergency endangering life and property
 - b. Required by the Contract Documents
 - c. Required by approved Change Orders (signed by the Architect, the County and the Contractor)

Payment for such work, if accomplished without written authorization, shall not be borne by the County and shall constitute adequate grounds for dismissal or other action against the Architect.

- 19) As part of the Architect's Basic Services, the Architect shall modify the original reproducible drawings and the Project Manual, delineating recorded built conditions of the Project or record documents compiled from the records of the Contractor and the Architect, showing all changes in the Work. This set of Documents shall also include record documents showing actual location of all Work.
- 20) Record Drawings: Record Drawings and documents are to be delivered to the County within thirty (30) days following Substantial Completion of the project by the Architect. Record Drawings shall be produced by the Architect and shall consist of a set of reproducible drawing sheets, based on a Mylar format, specifications on 8 1/2 x 11 inch paper and shall provide all the As-Built conditions documented by the Contractor for the project. The Architect shall also provide to the County a set of PDF drawing files and CAD drawing files formatted on CD-ROM with file format to follow the standard utilized by the County at the time of this Agreement. The CD-ROM files shall duplicate the conditions documented on the Mylar Record Drawings. Further, the Architect shall deliver three (3) sets of the operations and maintenance manuals, hard copy and electronic, training videos, written warranties and related documents.

G. Project Closeout. Upon receipt of written notice that construction is ready for final inspection and work is found acceptable for final payment. The Architect shall provide "as built" drawings in hard copy and electronic form following completion of the project.

H. 11 Month Inspection Phase. The Architect shall submit to the County its recommendations regarding the completion of all construction contracts. The Architect shall obtain from the Contractor all releases, waivers of lien, guarantees, warranties, maintenance data, bonds, and acknowledge receipt of the Contractor's record drawings. The Architect shall obtain and deliver to the County a signed receipt for all materials turned over.

- 1) The Architect shall attend one design process analysis meeting to assess implementation of sustainable design and construction requirements into the project and review any lessons learned from the overall effort.
- 2) The Architect shall, eleven months after substantial completion of the project, schedule a meeting with the Architect, Architect's consultants and the County to evaluate the building and its operations, inspect architectural systems, and endeavor to discover defects in materials, equipment, and workmanship. The Architect shall provide a written report of this activity to the County within seven (7) calendar days. The

County, through the Architect, shall notify affected Contractor of any corrective action noted in the report.

6. PROJECT REPRESENTATION BEYOND BASIC SERVICES

If the County and the Architect agree that more extensive representation for observation of the Site than that described in subparagraph E.F.5 shall be provided, the Architect shall, upon written authorization of the County, provide one or more Project Representatives to assist the Architect in carrying out such responsibilities at the site.

- A. Subject to County's approval, the Architect's Project Representative shall be selected, employed, and directed by the Architect. The Architect shall be compensated therefore as mutually agreed between the County and the Architect as set forth in an approved amendment to this Agreement, which shall, in addition, describe the duties, responsibilities, and limitations of authority of such Project Representative(s).
- B. Through the observations of such Project Representative(s), the Architect shall provide further protection for the County against defects and deficiencies in the Work to determine that the Work is carried out in conformance with the plans and specifications; but the furnishing of such project representation shall not diminish the rights, responsibilities, or obligations of the Architect as described in this Agreement.
- C. The County reserves the right to designate a County Representative in lieu of the Architect's Project Representative to provide additional site representation for the County beyond that provided by the Architect. If the County elects to provide a County Representative in lieu of a Project Representative, this subsection shall not diminish the rights, responsibilities, or obligations of the Architect established in this Agreement. The County Representative's duties and limits of authority shall be established so as not to conflict with those of the Architect. The Architect shall cooperate with the County Representative in the performance of its duties.
- D. The County reserves the right to employ an independent cost consultant to provide value and cost architectural or engineering services on the Project. If a cost consultant is retained, an amendment to this Agreement will be required identifying the duties and limits of authority of the cost consultant. The Architect shall cooperate with the cost consultant in the performance of the cost consultant's duties.

7. ADDITIONAL SERVICES

Additional Services of the Architect are services that are in addition to but not included in Basic

Services, provided that the Architect is not obligated to perform, furnish or incur such services as a part of the Architect's Basic Services. These services may be identified as part of the Architect's fee proposal and included with the lump sum fee as such. These services shall be provided when authorized in advance in writing by the County, and they shall be paid for by the County as outlined below. Attached as Exhibit D and incorporated into this Agreement by reference is a copy of the Architect's Additional Services Amendment Form. Additional Services may include, but are not limited, to the following:

- A. Providing financial feasibility or other special studies.
- B. Providing planning surveys, site evaluations, environmental impact studies, or comparative studies of prospective sites other than those services required under Basic Services to provide a complete and operable facility.
- C. Providing Services related to future facilities, systems, and equipment that are not intended to be constructed during the Construction Phase.
- D. Making revisions in drawings, specifications, or other documents when such revision are inconsistent with written approvals or instructions previously given and are due to causes beyond the control or not the responsibility of the Architect. This does not apply to revisions necessary for final approval of Programming, Schematic Design Studies, and Statement of Project Scope, and Design Development Documents, or to revisions necessary to bring the Project within the designated MACC. The Architect shall receive written authorization from the County before commencing work on any change or alteration to the Contract Documents.
- E. Preparing drawings, specifications, and supporting data and providing other services in connection with Change Orders, provided that the adjustment in the Basic Compensation resulting from the adjusted Construction Cost is not for work which should have been provided pursuant to Basic Services and provided that such Change Orders are required because of causes not related to the actions or responsibilities of the Architect.
- F. Conducting investigations, surveys, valuations, inventories, or detailed appraisals of existing facilities when such work is not covered by this Agreement.
- G. Providing consultation concerning replacement of any Work damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such Work.
- H. Providing tests, inspections, and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

- I. Providing all required work for design, selection, and preparation of contract documents, and bidding for the procurement of furniture, fixtures, and related equipment. Following installation of furniture, fixtures, and equipment, Architect shall inspect the installation and prepare a list for items requiring correction. Upon notification from the installer that all corrections have been made, Architect shall again inspect the site to confirm that corrections were properly done and authorize final payment of the furniture, fixtures and equipment.
- J. Payments for additional services of the Architect shall be a negotiated lump sum, excluding additional services of consultants.
- K. Payments for additional services of consultants, including but not limited to the additional structural, civil, landscape, interior design, mechanical, and electrical services, shall be computed by applying a multiple not to exceed of 1.10 times the amounts billed to the Architect for such services. The Architect shall provide to the County for approval, hourly rates for consultants and its employees detailed by professional levels prior to incurring any liability for Additional Services. GRT will be added as a separate item in the pay request.

8. MEETINGS

The Architect shall be attendance at, and record minutes of, all meetings required by this Agreement throughout the course of the project as set forth herein. The Architect shall initiate additional meetings germane to the Agreement when authorized, in writing, to the County. The Architect shall distribute copies of meeting minutes to participants and other interested parties as directed by the County within seven (7) calendar days. The Architect consultants shall attend each meeting as appropriate or as requested by the County.

9. MONTHLY PROGRESS REPORTS

- A. The Architect shall submit monthly progress reports of design/construction activities to the County. Failure to submit monthly reports may result in delay to the Architect's progress payments. The report shall include:
 - 1) Activities completed and items pending since last report,
 - 2) Projected progress,
 - 3) Comparison of schedule to actual progress, and
 - 4) Decisions or information required.

B. The Architect shall request from the County the following:

- 1) Information sufficient for the Architect to develop program criteria including the County's goals, objectives, and needs, and the organizational chart of individuals, furnishings, and equipment that shall occupy the Project.
- 2) To the extent practicable and reasonable, the Architect shall incorporate the County's requests into the documents for construction; however, the Architect is responsible solely to the County for the types of material incorporated into the construction, the size of the facilities constructed, and to design within the MACC.
- 3) A list (by manufacturer and model number) of special equipment (other than 110 volt, 60HZ, requiring less than 10 amps) that requires utility services, including, but not limited to, telecommunication equipment such as data transmission and computer lines that shall be designated by the County's Information Technology Division.

10. FURNISHINGS AND EQUIPMENT

The Architect shall provide dimensional, color finish, power, etc., information necessary to specify any moveable furnishings and equipment not included in the project. Dimensional furniture plans shall incorporate and coordinate the requirements for electrical, communications, and data based on use and equipment, as well as the location of HVAC control devices and access panels. The Architect shall be compensated with Additional Services for any design and specification related to movable furnishings, fixtures and equipment requested by the County beyond that described above, provided that the Architect is not obligated to perform, furnish or incur such services as part of Basic Services.

11. TELECOMMUNICATIONS EQUIPMENT

Telecommunications and/or radio equipment for County facilities generally falls under the jurisdiction of the County's Information Technology Division. The County will instruct the Architect when and/or where outlets, conduits, wiring, etc., are to be included in the Project. The Architect shall coordinate with utility companies and other agencies.

12. SOFTWARE REQUIREMENTS

- A. Drawing Formats. All CAD drawings shall be supplied in PDF format as well as in DWG format and be readable by the County-supported CAD desktop software (Autodesk AutoCAD). "Readable" means the ability to open a file without any errors (such as proxy, font substitution, etc.) and with objects, layers, and other file properties remaining intact.

- B. Other formats. File formats for word processor documents, spreadsheet documents, or slide presentations shall be those used by the Microsoft family of office software such as Word, Excel, and PowerPoint. Contact the County for the version. Macros may be included with these documents provided they are virus free, their function is explained next to the Code, and they are not write protected.
- C. Graphics shall be submitted in TIF, GIF, JPG, CALS or PDF file format (compressed image formats only). This option is intended for photos, conceptual sketches, etc., and not to indicate that raster file drawings will be accepted in place of AutoCAD DWG files.
- D. Data file formats for projects that employ information contained in a database or spreadsheet shall be those used by one of the following: Oracle, Microsoft Access, Microsoft SQL, or Microsoft Excel. All linkages of non-graphical data with graphic elements, relationships between database tables, and report format shall be maintained. All database tables shall conform to the structure and field naming guidance provided by the County. The Architect shall conform database file format preference with the County prior to issuance of database files.
- E. File formats for project management documents shall be either that used by Microsoft Project or hard copy. Confirm file format with County. Save project files with baseline.
- F. Deliverables integrating multiple file formats may be submitted as a PDF (version 4 or later) in addition to the base file structure. Examples include reports, photographs, and manuals created by using a variety of software packages and file formats. Confirm deliverable format preference with the County.
- G. Building Information Modeling (BIM). Projects and project teams are encouraged to utilize 3D object model and other building information model technology and software applications (including during project stages of planning, design, construction, and handover to space management and facility operations and maintenance). Outputs from these applications are acceptable as deliverables to the County, provided that 2D output is also submitted that fully complies with all provisions herein.

13. KEY PERSONNEL AND CONSULTANTS

The Architect's key personnel and consultants designated for this Project shall remain assigned for the duration of the Project. Any substitutions of the Architect's key personnel and consultants require written notification to the County and prior written consent of the County.

The County may require substitution of any personnel or consultants provided that the County has first notified the Architect in writing and allowed a reasonable period for adjustments and/or corrections.

14. GEOTECHNICAL ENGINEERING

The Architect shall, during the Schematic Design Phase, submit to the County a statement of necessary geotechnical or soils engineering services that will be required. If the Architect does not believe the services of a Geotechnical Engineer are required for the project, a written notice of such shall be provided to the County stating same. Geotechnical engineering and any necessary surveys shall be County-provided, as Additional Services or a reimbursable expense.

15. CIVIL ENGINEERING

The Architect shall, during the Schematic Design Phase, submit to the County a statement of need and extent of civil engineering required for the project to protect new and existing structures on or around the site from adverse conditions. Extensive civil engineering, or civil engineering work outside of the immediate site proposed for the project, shall be Additional Services or a reimbursable expense.

16. STANDARD OF CARE

The Architect represents that its officers, agents, employees and consulting professionals shall possess the experience, knowledge, and character necessary to qualify them individually for the services to be performed by them under this Agreement. All services shall be performed in accordance with the standards of their respective profession. Such affirmation by consultants, sub consultants, joint ventures, and agents shall not be construed as a diminution of the Architect's liability and responsibilities to the County.

17. APPLICATION OF PROFESSIONAL SEALS

Final technical reports and all bidding documents shall contain a legible seal, signature, date and license expiration date of the design professional responsible for the document or under whose supervision the document was prepared. For project manuals and technical reports the seal shall be provided by the design professional responsible for the overall coordination of the project. If more than one design professional has responsibility for portions of the work, additional seals may be provided on the cover, or on a separate signature sheet immediately following the table of contents.

18. REVIEW PROCESS

The Architect shall submit documents for review as required by the Agreement. The Architect shall provide five (5) sets of review documents to the County for each review. Following the reviews, the Architect shall respond to the County's Project Manager in writing to all review

comments and questions within fourteen (14) calendar days.

19. SITE

The physical location on which the Project is built, including all land acquired for the Project or associated with the Project, including surface drainage, wells, transmission lines, easements, rights-of-ways, roadway and existing facilities that may be directly or indirectly affected by the Project or that might affect the Project.

20. TIME

The Architect shall perform Basic and Additional Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. The Architect shall submit, for the County's approval and as part of this Agreement, a schedule of performance of the Architect's services and shall include allowances for periods of time required for the County's review and approval of submissions and for approvals of authorities having jurisdiction over the Project. This schedule, when approved by the County, shall not, except for reasonable cause not within the control of the Architect, be exceeded by the Architect (see Exhibit A, Compensation and Schedule. Failure of the Architect to perform within this schedule except through authorized extensions shall constitute a basis for termination and/or withholding of payment until schedule compliance is achieved by the Architect.

21. REIMBURSABLES

Reimbursable expenses are those in addition to Basic Services compensation and are the actual, incidental expenditures made by the Architect or its employees in the interest of the Project. The Architect shall incur no expenses for which the Architect is entitled reimbursement until the County gives written approval. Reimbursable expenses shall include, but not limited to, the following:

- A. Expenses of transportation when traveling in connection with the Project. Such expenses are limited to per diem and mileage rates are set forth in the Per Diem and Mileage Act, Section 10-8-1 to 10-8-8, NMSA 1978 and DFA Rule 95-1 as amended, except that the County shall authorize such travel in advance.
- B. Expenses of fees paid for securing approvals of authorities having jurisdiction over the Project.
- C. The Architect shall charge Bidders or Offerors a deposit fee equal to the full cost of reproduction of drawings, specifications, and other documents required by the County to solicit bids or proposals and execute the Construction Contract. This fee shall be completely refunded if the documents are returned in usable condition within the time frame specified in the Invitation for Bid or Request for Proposals. All forfeited fees shall be returned to the County.

- D. Construction documents and specifications will be printed by the lowest quote received from print rooms specified by the County. All reproduction required must be approved in writing by the County prior to request. This expense shall be paid by the County for the initial Bidding and by the Architect for subsequent Biddings. All other reproductions as may be required for the County's review or for the office use of the Architect and the Architect's consultants shall be provided as part of the Architect's Basic Compensation.
- E. Reimbursable expenses, if allowed by this Agreement, shall be compensated at direct cost not to exceed the reimbursable amounts as indicated in Exhibit A of this Agreement, unless otherwise modified by written amendment.

22. OWNER'S RESPONSIBILITIES

- A. The County may designate, in writing, a representative authorized to act in its behalf, however, authority for final approval of the Project Phase Documents, the Contract Documents, or any Change Order is retained by the County. The County shall examine documents submitted by the Architect and shall render decisions promptly to avoid unreasonable delay in the progress of the Architect's services.
- B. The County may designate a Project Manager for the project who shall be the County's primary representative in the administration of this Agreement. The Architect will report to the County's Project Manager. All correspondence from the Architect shall be communicated to the Project Manager.
- C. The County shall ensure review in writing of each project phase and shall notify the Architect of the accord.
- D. The County shall furnish a legal description and certified land survey of the site, giving, as applicable grades and lines of streets, alleys, pavements, and adjoining property; rights-of-ways, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site; locations, dimensions, and complete data pertaining to existing buildings, other improvements, and trees, and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths.
- E. When documents and drawings provided under the above subparagraph are furnished to the Architect, payment of the Construction Document Phase will not be made to the Architect until the County has received all said documents and drawings.
- F. The County reserves the right not to provide certain project-related documents or drawings to the Architect at the County's discretion.

- G. If the County observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the County to the Architect.
- H. The County shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and of the Work.

23. RESPONSIBILITY FOR CONSTRUCTION COST

- A. When the detailed statement of probable construction cost required by subparagraph 5.D.11) or an evaluation prepared by the Architect indicates that the Project exceeds the MACC, the provisions outlined below shall apply:
 - 1) Evaluations of the County's Project budget, statements of probable construction cost, and detailed estimates of construction cost prepared by the Architect represents the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that the Architect does not have control over the cost of labor, materials, or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project budget proposed, established, or approved by the County, or from any Statement of Probable Construction Cost or other cost estimate or evaluation prepared by the Architect.
 - 2) The MACC may be adjusted by the County at the completion of the Programming Phase, and the design fees shall be modified. The MACC, at the start of the Schematic Design Phase, may only be adjusted based upon modifications to the Scope of Work approved in advance by the County. The Architect shall notify the County in writing at any time the estimated cost of construction is expected to exceed the MACC. The Architect's written notification shall include a detailed explanation and shall provide suggestions for reducing the estimated cost so that it does not exceed the MACC. The County agrees to cooperate with the Architect and permit reasonable and necessary revisions or reductions to the scope of the Project. The Architect agrees to revise the drawings and specifications as necessary at no additional expense to the County, if so requested by the County, in order to bring the estimated cost within the MACC;
 - 3) The MACC is established, as a condition of this Agreement, as a fixed limit of Construction Cost for design and bidding purposes. The Architect shall be permitted to determine what materials, equipment, component systems, and types of construction are to be included in the Bidding or Proposal

Documents to bring Construction Cost within the MACC. With the written consent of the County, the Architect may also include in the Bidding or Proposal Document either additive or deductive alternate bids or proposals to adjust the Construction Cost to the fixed limit;

- 4) If bidding or negotiations with potential Contractors have not commenced within two months after the Architect submits Bidding or Proposal Documents to the County, the Project budget and/or MACC shall be adjusted to reflect any change in the general level of prices in the construction industry between the date of submission of the Bidding or Proposal Documents to the County and the date on which proposals are sought;

- 5) The MACC, therefore, is established as a condition of this Agreement. When it is exceeded by the lowest bona fide bid, the County may:

- a. Give written approval of an increase on the MACC, or
- b. Authorize re-bidding the Project within a reasonable time, and
- c. Cooperate with the Architect in revising the Project Scope and, as required, to reduce the Probable Construction Costs.

If the County elects to reduce the Probable Construction Cost, the County shall cooperate with the Architect in revising the quality and scope of the Project; and the Architect, without additional charge for services or re-printing of the Drawings and Specifications shall modify the Drawings and Specifications as necessary to bring the Construction Cost within the MACC. The Architect shall then assist the County through the Bidding process (see Subparagraph 5.E).

24. ARCHITECT'S RECORDS AND AUDIT

- A. Records of expenses by the Architect and its consultants pertaining to all services under this Agreement shall be kept on the basis of generally accepted accounting principles and shall be available at mutually convenient times to the County or the County's authorized representative;
- B. The County shall have the right to audit all such records and billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments;
- C. Records of expenses shall be kept by the Architect and its consultants and shall be available to the County until all applicable Statutes of Limitations have run, and this

provision shall survive and continue beyond the termination of other terms of this Agreement;

- D. These records shall be subject to inspection by the County and shall be maintained for inspection for a period of three (3) years. Billings may be audited both before and after payment; and payment by the County under this Agreement and shall not foreclose the right of the County to recover excessive or illegal payments.

25. OWNERSHIP AND USE OF DOCUMENTS

- A. Original construction document drawings, designs, specifications, notes, project manuals, and/or related documents and other work developed in the performance of this Agreement by the Architect shall become the sole property of the County whether the Project for which they are made is constructed or not, pursuant to Section 13-1-123, NMSA 1978. The County shall keep these documents on file. The Architect may maintain a complete reproducible set of any and all record documents developed under this Agreement;
- B. All documents, including drawings and specifications prepared by the Architect pursuant to this Agreement are instruments of service in respect to the Project. The Architect shall not be liable should the County use the documents, in whole or in part, in the future when the Architect's services are not retained;
- C. The original drawings may be marked by the County or the Architect to designate the restrictions of use of these documents as set forth in the subparagraph 13.B;
- D. Copyright: No reports, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Architect.

26. MAINTENANCE

Ease of maintenance and the ability to repair major items of installed equipment by replacement are essential to the Project. To ensure that these services can be adequately performed after the Project is accepted by the County, the Architect shall:

- A. In all relevant Contract Documents, design and provide for all major installed equipment in the Project, including but not limited to, removal, access, maintenance, and storage space needs. In addition, all installed equipment systems shall be appropriately identified and labeled to describe the capacities, flows, and other pertinent information related to their maintenance and safe operation;
- B. Specify only equipment that can be readily maintained by the County or other qualified commercial repairman;

- C. Provide Construction Documents that accurately depict the installation of all major items of installed equipment and which provide reasonable detail on all other major systems to be installed;
- D. At the completion of the Schematic, Design Development, and Construction Documents Phases, brief the County on the rationale for the selection of the major mechanical and electrical systems to be specified in the Contract Documents, together with the probable life-cycle costs.

27. EXHIBITS

All exhibits, attachments, riders and addenda referred to in this Agreement, including but not limited to, the exhibits referred to in this Agreement, as well as those listed below, are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

Exhibit A	Compensation and Schedule
Exhibit B	Architect's Pay Request
Exhibit C	Amendment for Basic Services
Exhibit D	Amendment for Additional Services
Exhibit E	Listing of Consultants
Exhibit F	Amendment for Consultant Additional Services
Exhibit G	Construction Change Order
Exhibit H	Bidding Index

28. ATTACHMENTS LIST

Attachment 1	Project Assignment - Scope of Work and Project Schedule
Attachment 2	Authorization to Proceed
Attachment 3	Hourly Rate Fee Schedule (submitted by the Architect)

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Kathleen S. Holian, Chairperson
Santa Fe County Board of Commissioners

Date

ATTEST

Geraldine Salazar,
Santa Fe County Clerk

Date

APPROVED AS TO FORM



Stephen C. Ross
Santa Fe County Attorney

11/24/13

Date

FINANCE DEPARTMENT APPROVAL

Teresa C. Martinez
Finance Director

Date

CONTRACTOR

Signature

Date

Print Name

Title

Federal Identification Number: _____

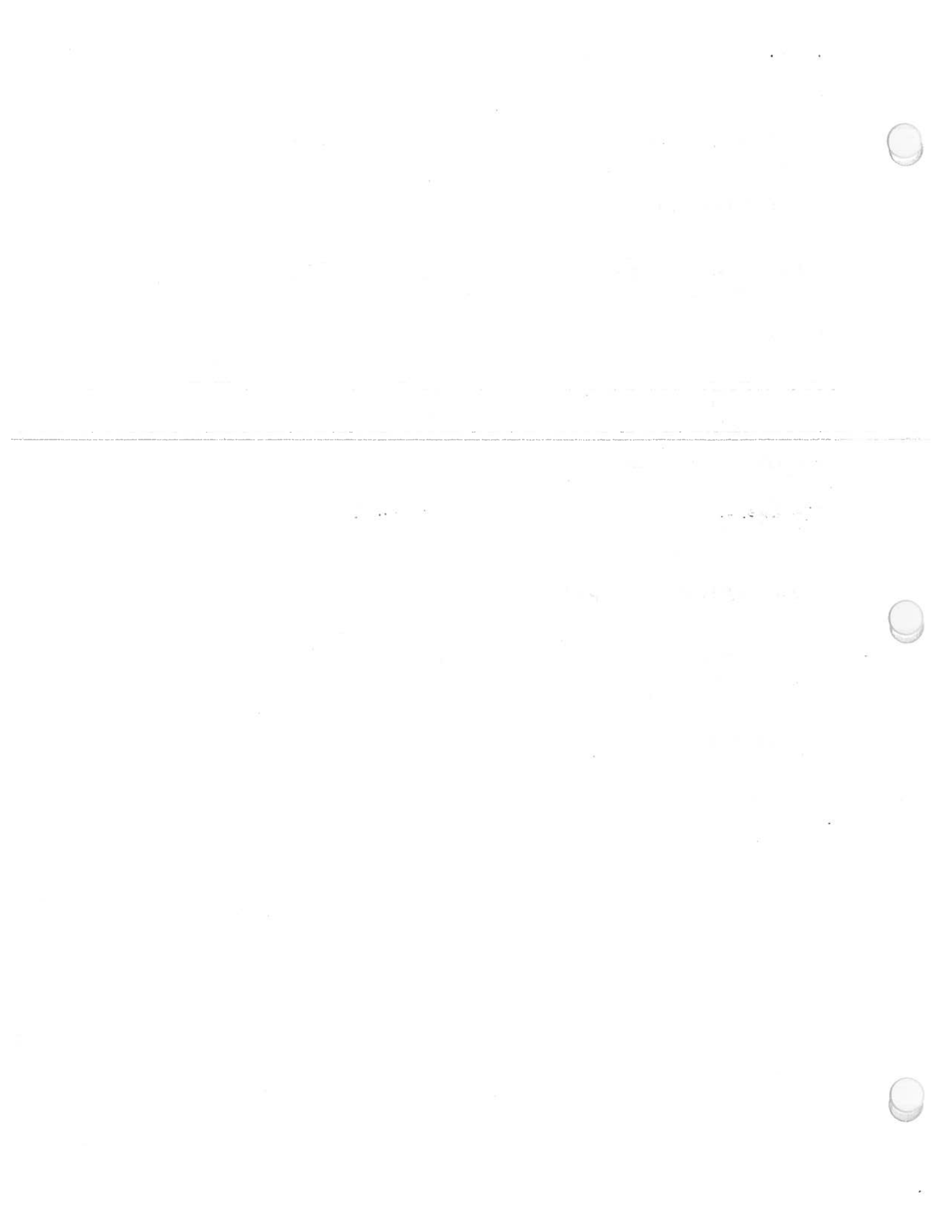


EXHIBIT A**COMPENSATION AND SCHEDULE**

Project Name: _____
 Project Number: _____
 Project Location: _____

BASIC SERVICES			Date to be completed
Programming Phase	10%	\$0.00	Date or Weeks
Schematic Phase	15%	\$0.00	Date or Weeks
Design Development Phase	20%	\$0.00	Date or Weeks
Construction Document Phase	25%	\$0.00	Date or Weeks
Bidding and Negotiations Phase	3%	\$0.00	Date or Weeks
Construction Phase	22%	\$0.00	Date or Weeks
Project Closeout	3%	\$0.00	Date or Weeks
11 Month Inspection Phase	2%	\$0.00	Date or Weeks
Total Basic Services Amount			
	100%	\$0.00	

REIMBURSABLES

LIST \$0.00
 \$0.00
 \$0.00

Total Reimbursable Amount (Not to exceed)

ADDITIONAL SERVICES

LIST SERVICES \$0.00
 \$0.00
 \$0.00

Total Additional Services Amount \$0.00

CONSULTANT SERVICES

LIST SERVICES \$0.00
 \$0.00
 \$0.00

Total Consultant Services Amount \$0.00

TOTAL SERVICES AMOUNT \$0.00



EXHIBIT B**ARCHITECT'S PAY REQUEST FORM**

Architect: _____ Pay Request Statement No. _____
 Date: _____ Project Number: _____
 Project Name: _____ Project Location: _____

Basic Services	Contract Sum	Percentage Completed	Completed to date	Less Previous Request	Current Request	Revision (SFC)
Programming Phase	\$	%	\$	\$	\$	
Schematic Phase	\$	%	\$	\$	\$	
Design Development Phase	\$	%	\$	\$	\$	
Construction Document Phase	\$	%	\$	\$	\$	
Bidding and Negotiation Phase	\$	%	\$	\$	\$	
Construction Phase	\$	%	\$	\$	\$	
Project Closeout	\$	%	\$	\$	\$	
11 Month Inspection Phase						
Subtotal						
CONTRACT CHANGES						
REIMBURSABLE *						
Type of Services	\$	%	\$	\$	\$	
Type of Services	\$	%	\$	\$	\$	
Type of Service	\$	%	\$	\$	\$	
Subtotal	\$	%	\$	\$	\$	
ADDITIONAL SERVICES **						
Type of Service	\$	%	\$	\$	\$	
Type of Service	\$	%	\$	\$	\$	
Type of Service	\$	%	\$	\$	\$	
Subtotal	\$	%	\$	\$	\$	
Total	\$	%	\$	\$	\$	



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EXHIBIT C**AMENDMENT TO AGREEMENT
BETWEEN SANTA FE COUNTY AND XXXXXXXXX
FOR PROFESSIONAL ARCHITECTURAL BASIC SERVICES**

In accordance with Part A Paragraph 5 Architect's BASIC SERVICES and Part B. Paragraph 1, SCOPE OF WORK, where applicable, to the Agreement Between the County and Architect, the Architect is authorized to provide the following Basic Services (scope of work and maximum compensation).

PROJECT NAME: _____

PROJECT NUMBER: _____

PROJECT LOCATION: _____

LIST SERVICES:

- 1.
- 2.
- 3.
- 4.
- 5.

Justification for Basic Services (Required):

Basic Services Compensation Amount	\$0.00
Reimbursable Amount (If Applicable)	\$0.00
Additional Services Amount	\$0.00
Consultation Services Amount (If Applicable)	\$0.00

Total	\$0.00
--------------	---------------

SIGNATURE PAGE

SANTA FE COUNTY

Katherine Miller
Santa Fe County Manager

Date: _____

Approved as to Form

Stephen C. Ross
Santa Fe County Attorney

Date: _____

Finance Department Approval

Teresa C. Martinez
Finance Director

Date: _____

ARCHITECT

Signature

Date: _____

Print Name

EXHIBIT D**AMENDMENT TO AGREEMENT
BETWEEN SANTA FE COUNTY AND XXXXXXXXX
FOR PROFESSIONAL ARCHITECTURAL ADDITIONAL SERVICES**

In accordance with Part A Paragraph 7 Architect's ADDITIONAL SERVICES and Part B. Paragraph 1, SCOPE OF WORK, where applicable, to the Agreement Between the County and Architect, the Architect is authorized to provide the following Additional Services (scope of work and maximum compensation).

PROJECT NAME: _____

PROJECT NUMBER: _____

PROJECT LOCATION: _____

LIST SERVICES:

- 1.
- 2.
- 3.
- 4.
- 5.

Justification for Basic Services (Required):

Basic Services Compensation Amount	\$0.00
Reimbursable Amount (If Applicable)	\$0.00
Additional Services Amount	\$0.00
Consultation Services Amount (If Applicable)	\$0.00

Total	\$0.00
--------------	---------------

SIGNATURE PAGE

SANTA FE COUNTY

Katherine Miller
Santa Fe County Manager

Date: _____

Approved as to Form

Stephen C. Ross
Santa Fe County Attorney

Date: _____

Finance Department Approval

Teresa C. Martinez
Finance Director

Date: _____

ARCHITECT

Signature

Date: _____

Print Name

EXHIBIT E**LISTING OF CONSULTANTS**

PROJECT NAME: _____ PROJECT NO: _____

<i>CIVIL:</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>ELECTRICAL</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:
<i>LANDSCAPING</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>ESTIMATING</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:
<i>STRUCTURAL</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>OTHER</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:
<i>MECHANICAL</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:	<i>OTHER</i> Company Name: Consultant Name: Address: Ph. No.: Fax No.: E-mail:

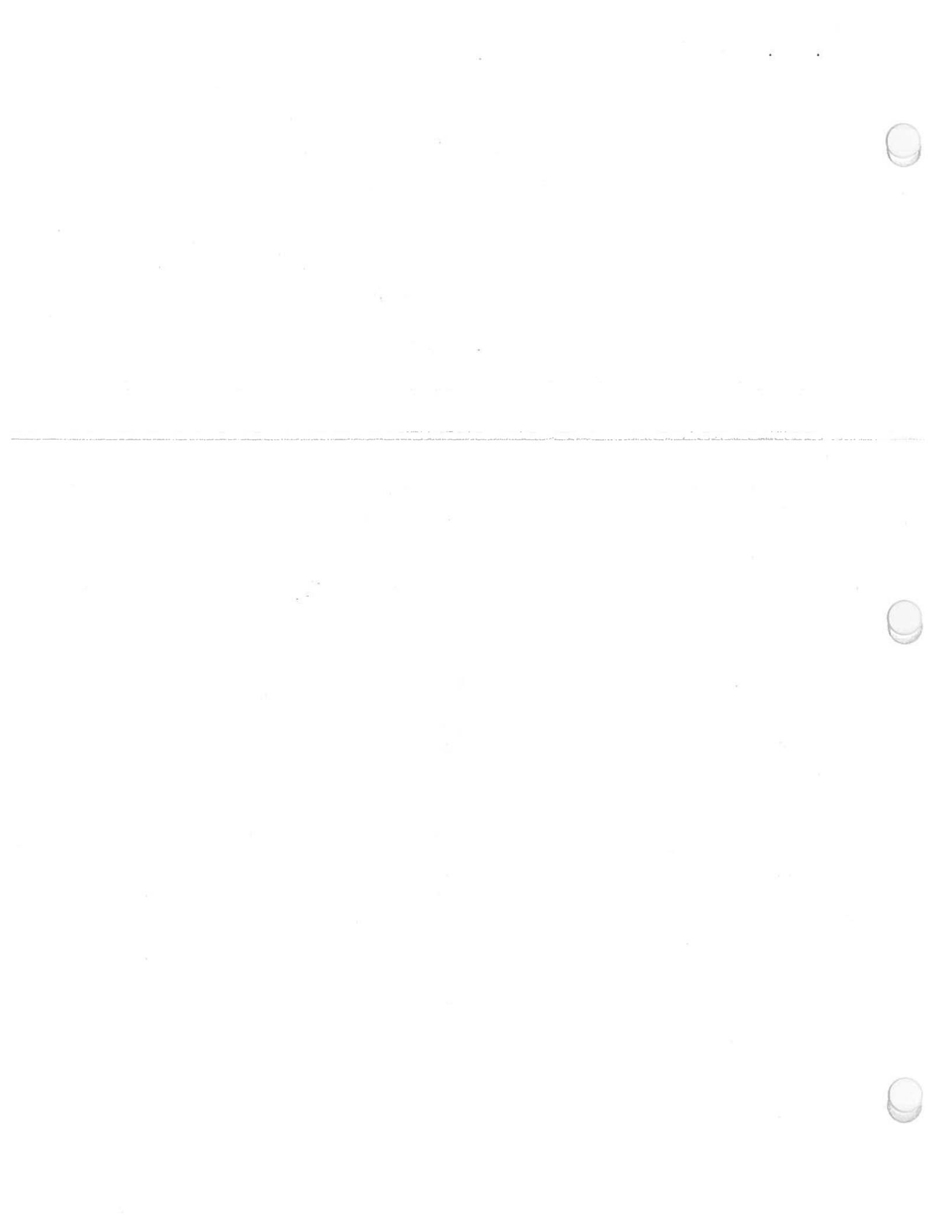


EXHIBIT F

AMENDMENT TO AGREEMENT BETWEEN SANTA FE COUNTY AND XXXXXXXXX FOR CONSULTANT ADDITIONAL SERVICES

In accordance with Part B Paragraph 3 Architect's ADDITIONAL SERVICES, where applicable, to the Agreement Between the County and Architect, the Consultant is authorized to provide the following Additional Services (scope of work and maximum compensation).

PROJECT NAME: _____

PROJECT NUMBER: _____

PROJECT LOCATION: _____

LIST SERVICES:

- 1.
- 2.
- 3.
- 4.
- 5.

Justification for Basic Services (Required):

Basic Services Compensation Amount	\$0.00
Reimbursable Amount (If Applicable)	\$0.00
Additional Services Amount	\$0.00
Consultation Services Amount (If Applicable)	\$0.00

Total	\$0.00
-------	--------

SIGNATURE PAGE

SANTA FE COUNTY

Katherine Miller
Santa Fe County Manager

Date: _____

Approved as to Form

Stephen C. Ross
Santa Fe County Attorney

Date: _____

Finance Department Approval

Teresa C. Martinez
Finance Director

Date: _____

ARCHITECT

Signature

Date: _____

Print Name

EXHIBIT G

SANTA FE COUNTY

CHANGE ORDER

DISTRIBUTED TO: OWNER ☐ CONTRACTOR ☐ FIELD ☐
 ARCHITECT ☐ SUBCONTRACTOR ☐ OTHER ☐

PROJECT:
CONTRACTOR:

CHANGE ORDER NUMBER:
DATE:
PROJECT NUMBER:
CONTRACT DATE:
CONTRACT FOR:

THIS CONTRACT IS CHANGED AS FOLLOWS:

#	COST	DESCRIPTION
1		
2		
3		
4		
5		

The original contract sum: \$
 Net change by previous Change Orders: \$
 Contract Sum prior to this Change Oder: \$
 Contract Sum will be increased by this Change Order in the amount of: \$
 New Contract sum including this Change Order will be: \$
 The Contract Time will be increased by () days.
 The date of Substantial Completion as of the date of this Change Order is:

GROSS RECEIPTS TAX (GRT) IS NOT ADDED TO THIS CHANGE ORDER

ACCEPTED BY:

ARCHITECT

CONTRACTOR

OWNER

By: _____

By: _____

By: _____

Date: _____

Date: _____

Date: _____

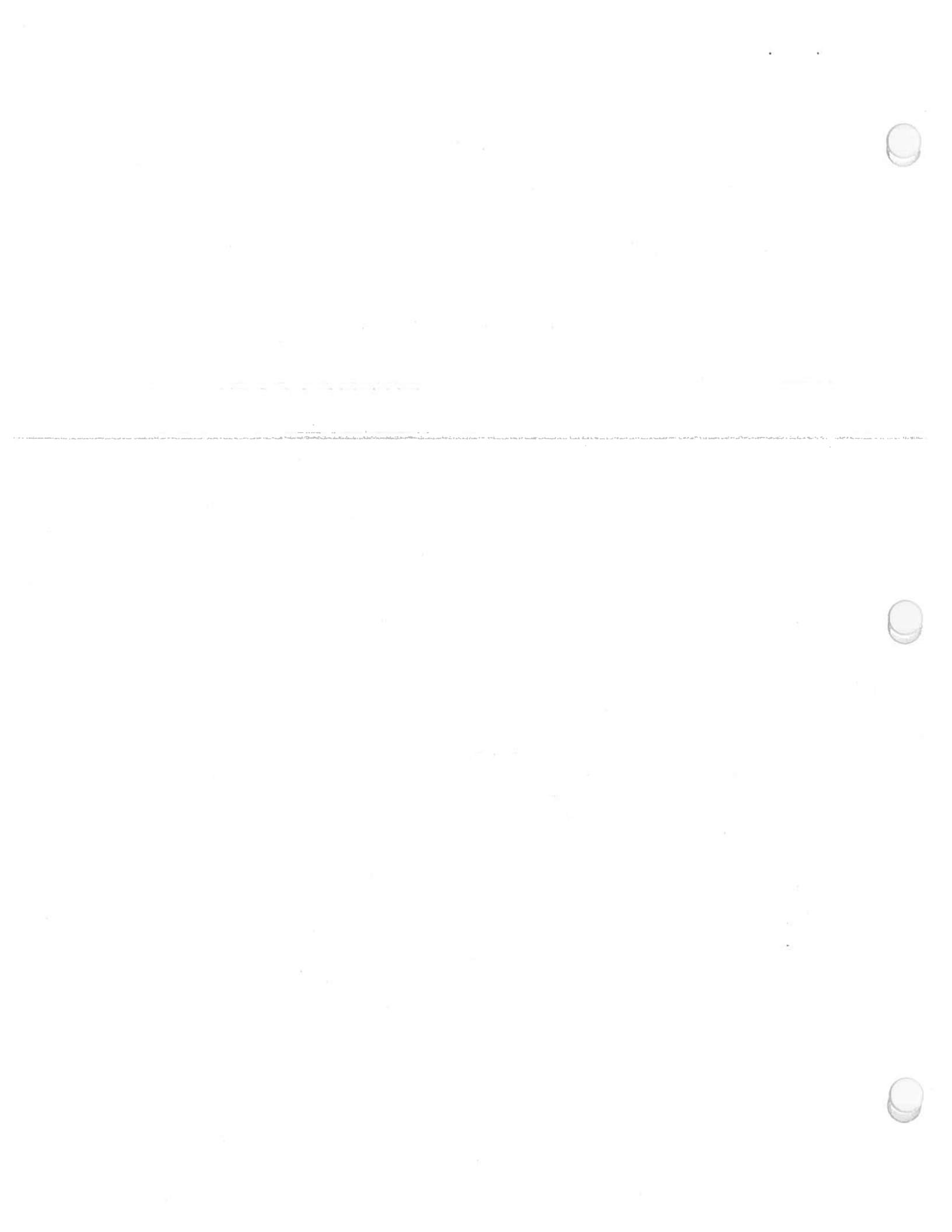


EXHIBIT H

INDEX TO BIDDING

TITLE	PAGES
Invitation for Bid Advertisement	00 1000-1
Definitions	00 2000-1-2
INSTRUCTION TO BIDDERS	00-3000
Location and Description of Work	00 3000-1
Time and Place of Receiving and Opening Bids	00 3000-1
Specifications	00 3000-1
Contract Time	00 3000-1
Copies of Bidding Documents	00 3000-1
Bidder's Representation	00 3000-2
The Complete Contract Documents Contain the Following	00 3000-2
Interpretations/Addenda	00 3000-2
Preference in Procurement	00 3000-2
Subcontractors, Suppliers and Others	00 3000-4
Substitutions	00 3000-4
Wage Rates/Registration with the Labor and Industrial Division	00 3000-4
Bid Form	00 3000-4
Bid Security	00 3000-5
Power of Attorney	00 3000-5
Qualifications of Bids	00 3000-5
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Certification of Bidder Regarding Equal Employment Opportunity	00 5000-5
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B. Campaign Contribution Disclosure Form	
C. Resident Veterans Preference Certification	

ATTACHMENT 1

PROJECT ASSIGNMENT SCOPE OF WORK AND PROJECT SCHEDULE

Project Name: _____
Project Number: _____
Project Location: _____
Project MACC: _____

SCOPE OF WORK

A. **Basic Services:** The project includes architectural design and related services to include: (Insert Scope of Work)

B. **Additional Services:** Additional Services include, (List Services):

C. **Project Schedule**

BASIC SERVICES		COMPLETION DATE
Programming Phase	10%	Date or Weeks*
Schematic Phase	15%	Date or Weeks
Design Development Phase	20%	Date or Weeks
Construction Document Phase	25%	Date or Weeks
Bidding and Negotiation Phase	3%	Date or Weeks
Construction Phase	22%	Date or Weeks
Project Closeout	3%	Date or Weeks
11 Month Inspection Phase	2%	Date or Weeks

*In lieu of dates duration in weeks may be substituted.



ATTACHMENT 2
AUTHORIZATION TO PROCEED
(SAMPLE)

Date: _____

To: _____

RE: Authorization to Proceed – (Insert Project Name/Number/Location

Dear _____:

As project manager for this project, I am pleased to inform you that (insert architect) has been chosen to provide the architectural services for (insert project). This letter will serve as your Authorization to Proceed with the architectural services for this project. The County would like to schedule a meeting prior to the commencement of services at (insert location). Please contact me to schedule a mutually acceptable date and time. A copy of the purchase order (# ____) is attached for your records. Please ensure that all invoices or requests for payments contain this PO number for reference.

If you have any questions, you can contact me at (insert phone number) or by email at (insert email address).

On behalf of Santa Fe County, I would like to thank you for your participation in this solicitation and look forward to working with you and your company on this important County project.

Sincerely,

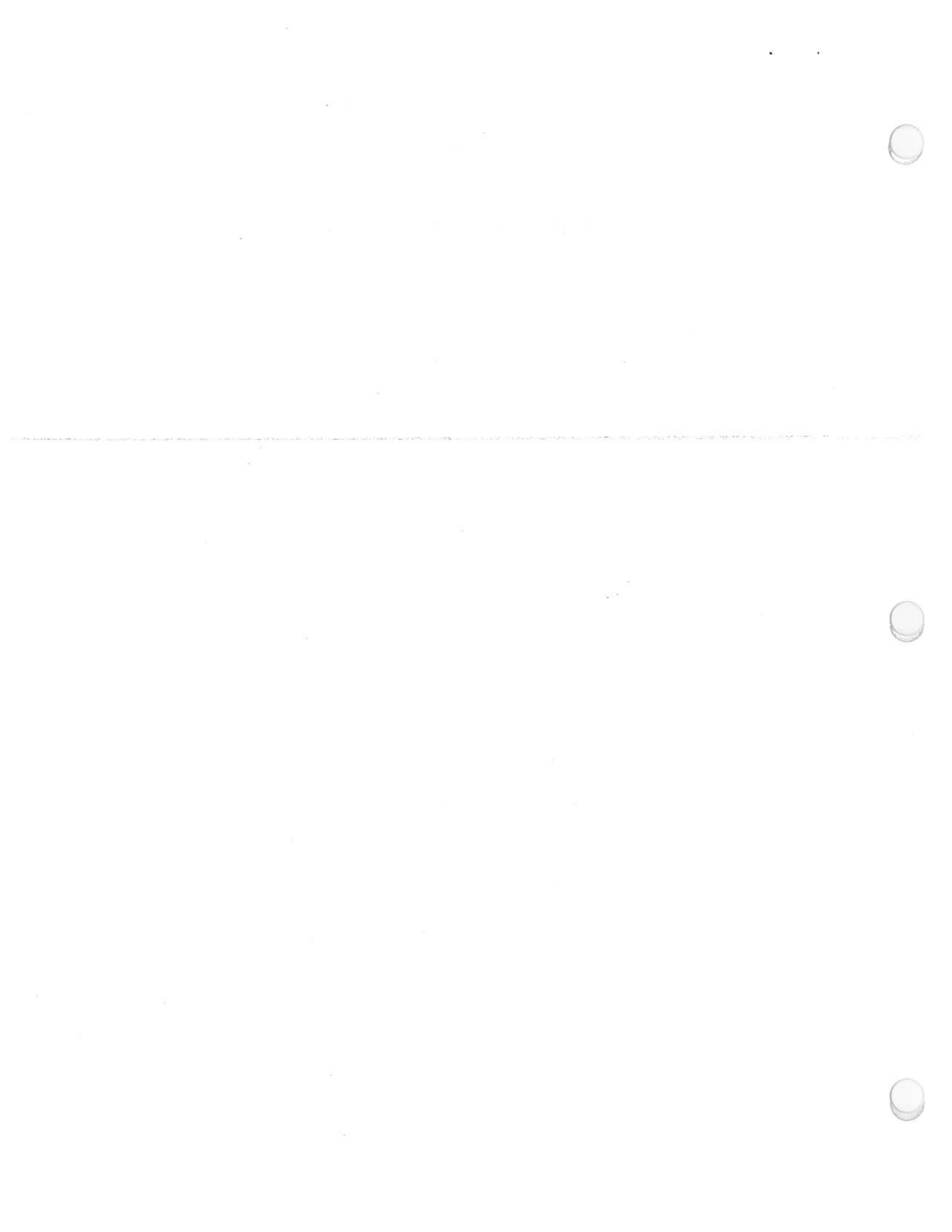
(Insert Name/Title)

(Insert Department)

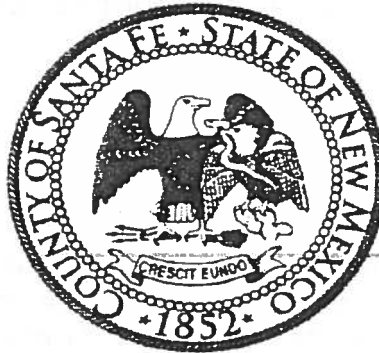
Santa Fe County



ATTACHMENT 3
ARCHITECT
HOURLY RATE FEE SCHEDULE



**GENERAL TERMS AND CONDITIONS OF THE AGREEMENT
BETWEEN SANTA FE COUNTY
AND ARCHITECT
FOR PROFESSIONAL ARCHITECTURAL SERVICES**



**SANTA FE COUNTY
ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING DIVISION**

2013 EDITION, PART B of Two Parts

Changes, additions, deletions and/or any modifications other than those agreed upon execution of this contract, without the written consent of Santa Fe County shall render this document null and void.

1. SCOPE OF WORK

Architect shall provide the services set forth in Part A Section 2 (Scope of Work) of this Agreement and as provided in Exhibit A.

2. EFFECTIVE DATE AND TERM

The Agreement shall, upon due execution by all parties, become effective as of the date first written in Part A and shall terminate one (1) year later with an option to renew an additional three (3) years, for a total of no more than four (4) years, unless earlier terminated pursuant to Section 4 (Termination) or Section 5 (Appropriations and Authorizations) of these General Terms and Conditions.

3. ADDITIONAL SERVICES

- A. The parties agree that all tasks set forth in Section 1, (Scope of Work) above and Section 5 (Basic Services) of Part A of the Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 4 (Compensation,

Invoicing, and Set-Off) of Part A of this Agreement, and for no other cost, amount, fee, or expense.

- B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Architect, shall be incorporated in written amendments to this Agreement.

4. TERMINATION

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised then non-breaching party in writing that it intended to cure.
- B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Architect written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Architect's receipt of the notice. The County shall pay the Architect for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work or service performed after the effective date of termination.
- C. In the event of termination, all finished or unfinished documents, data, sketches, calculations, estimates, records, schedules, studies, drawings, maps, models, photographs, reports, and such other information and data accumulated in the performance of services under this Agreement, whether complete or in progress, prepared by the Architect under this Agreement shall become the County's property, and the Architect shall be entitled to receive compensation for actual work satisfactorily completed hereunder, including reimbursable expenses authorized by the County which are then due.

5. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Santa Fe Board of County Commissioners and/or, if state

funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Architect. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Architect for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Architect in any way or forum, including a lawsuit.

6. INDEPENDENT CONTRACTOR, SUBCONTRACTING AND PERSONNEL

- A. Independent Contractor. The Architect and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Architect and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Architect has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.
- B. Subcontracting. The Architect shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.
- C. Personnel.
 - 1) All work performed under this Agreement shall be performed by the Architect or under its supervision.
 - 2) The Architect represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

7. ASSIGNMENT

The Architect shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without County's advance written approval shall be null and void and without any legal effect.

8. RELEASE

Upon its receipt of all payments due under this Agreement, Architect releases County, its Elected Officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

9. CONFIDENTIALITY

Any confidential information provided to or developed by the Architect in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Architect without prior approval from the County.

10. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT

County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement. To the extent any material is copyrightable; the County shall own such copyright.

11. CONFLICT OF INTEREST

Architect represents that it has no and shall not require any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under the Agreement.

12. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

The Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Architect specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 2 (Scope of Work), Part A of the Agreement unless such changes are set forth in a duly executed written amendment to the Agreement.

13. ENTIRE AGREEMENT; INTEGRATION

The Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into the written Agreement. No prior or contemporaneous agreement, covenant or understandings verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

14. EXHIBITS AND ATTACHMENTS: INCORPORATION BY REFERENCE

All exhibits, attachments, riders, and addenda referred to in the Agreement, including but not limited to the Exhibits referred to in this Agreement, as listed in Paragraph 27 EXHIBITS and Paragraph 28 ATTACHMENTS, in Part A of this Agreement, are hereby incorporated into this

Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

15. NOTICE OF PENALTIES

The Procurement Code, Section 13-1-28 through 13-1-199 NMSA 1978 imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

16. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

- A. Architect agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, Architect specifically agrees not to discriminate against any person with regard to employment with Architect or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. Architect acknowledges and agrees that failure to comply with this Section shall constitute a material breach of the Agreement.

17. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

- A. In performing its obligations hereunder, Architect shall comply with all applicable laws, ordinances, and regulations.
- B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules.

18. RECORDS AND INSPECTIONS

- A. To the extent their books and records relate to (i) their performance of the Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in the Agreement or that was required to be submitted to County as part of the procurement process, Architect agrees to (i) maintain such books and records during the term of the Agreement for a period of six (6) years from the date of final payment under the Agreement; (ii) allow County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").
- B. To the extent their books and records relate to (i) their performance of the Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data

(if any) set forth in the Agreement or that was required to be submitted to County as part of the procurement process, Architect also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of the Agreement and for a period of six (6) years from the date of final payment under the subcontract;(ii) to allow county or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in with GAAP.

19. INDEMNIFICATION

- A. Architect shall indemnify and hold harmless County and its Elected Officials, agents, and employees from any losses, liabilities, damages, causes of action, costs or expenses including attorney's fees, attributable to bodily injury, sickness, disease, or death, or to injury to persons or property including loss of use, caused directly or indirectly by the negligent act or failure to act by Architect, or by Architect's officers, employees, consultants or anyone for whom the Architect is legally liable, or Architect's breach of any representation or warranty made herein.
- B. Architect agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Architect in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.
- C. Architect's obligations under this section shall not be limited by the provisions of any insurance policy Architect is required to maintain under this Agreement.

20. SEVERABILITY

If any term or condition of the Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of the Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

21. NOTICES

Any notice required to be given to either party by the Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Santa Fe County
Office of the County Attorney
102 Grant Avenue
Santa Fe, New Mexico 87501

To the Architect: Lee Gamelsky Architects, P.C.
2412 Miles Road SE
Albuquerque, New Mexico 87106

22. ARCHITECT'S REPRESENTATIONS AND WARRANTIES

The Architect hereby represents and warrants that:

- A. This Agreement has been duly authorized by the Architect, the person executing this Agreement has authority to do so, and, once executed by the Architect, this Agreement shall constitute a binding obligation of the Architect.
- B. This Agreement and Architect's obligations hereunder do not conflict with Architect's corporate agreement or any statement filed with the Public Regulation Commission on Architect's behalf.
- C. Architect is legally registered and licensed to operate as a business in New Mexico and to do the work anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

23. LIMITATION OF LIABILITY

County's liability to Architect for any breach of this Agreement by County shall be limited to direct damages and shall not exceed the maximum amount of compensation specified in Section 4, (Compensation and Invoicing) Part A, of the Agreement. In no event shall County be liable to Architect for special or consequential damages, even if County was advised of the possibility of such damages prior to entering into the Agreement.

24. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party to the Agreement.

25. INSURANCE

- A. General Conditions. Engineer shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance. Including Automobile. Engineer shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy and liability limits in amounts not less than \$1,000,000 combined single limits of bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all

operations performed for County by Engineer; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off work; and contractual liability coverage under which this Agreement is an insured contract. Santa Fe County shall be named additional insured on the policy.

- C. Workers' Compensation Insurance. Engineer shall comply with the provisions of the Workers' Compensation Act.
- D. Malpractice/Errors and Omissions Insurance. Engineer shall procure and maintain during the life of this Agreement professional liability (errors and omissions) insurance with policy limits of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 per aggregate.
- E. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), Engineer shall increase the maximum limits of any insurance required herein.

26. PERMITS, FEES, AND LICENSES

Architect shall procure all permits and licenses, pay all charges, fees and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

27. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

28. NEW MEXICO TORT CLAIMS ACT

No provision of the Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees: at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

29. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Architect agrees to compute and submit simultaneous and execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

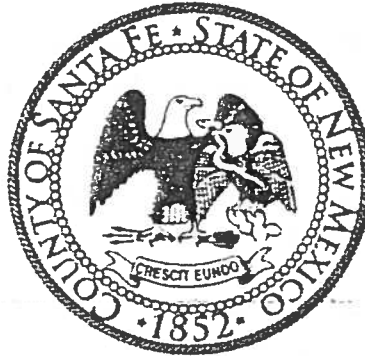
30. SURVIVAL

The provisions of following paragraphs shall survive termination of the Agreement:

INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.



AGREEMENT BETWEEN SANTA FE COUNTY AND ARCHITECT FOR PROFESSIONAL ARCHITECTURAL SERVICES



SANTA FE COUNTY ADMINISTRATIVE SERVICES DEPARTMENT

PURCHASING DIVISION

2013 EDITION, Part A of Two Parts

Changes, additions, deletions and/or any modifications other than those agreed upon execution of this contract without the written consent of Santa Fe County shall render this document null and void.

THIS AGREEMENT is made and entered into on this ____ day of _____, 2013, by and between SANTA FE COUNTY (hereinafter referred to as the "County"), a New Mexico political subdivision, and CONRON & WOODS ARCHITECTS, a sole proprietorship licensed to do business in the State of New Mexico, (hereinafter referred to as the "Architect").

Hereinafter "County":

Santa Fe County
PO Box 276
102 Grant Avenue
Santa Fe, New Mexico 87504-0276
TELEPHONE: 505-986-6200

Hereinafter "Architect":

Conron & Woods Architects
1222 Luisa Street
Suite A
Santa Fe, New Mexico 87505
TELEPHONE: 505-983-6948

RECITALS

WHEREAS, Santa Fe County has identified a need for On-Call Architectural and Engineering Services to be provided on an "as-needed" basis for a variety of projects throughout the County as funding becomes available and as specific needs are identified;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112, competitive sealed proposals were solicited via a formal Request for Proposal, RFP No. 2014-0131-PW/PL for these services;

WHEREAS, Santa Fe County has selected multiple qualified and experienced architectural professionals to assist the County in a variety of building and renovation design projects pursuant to NMSA 1978, Section 13-1-154;

WHEREAS, based upon the evaluation criteria established within the request for proposals for the purpose of determining the most qualified Offerors, the County has determined the Architect as one of the most responsive and highest rated Offerors;

WHEREAS, the County requires the services of the Architect, and the Architect is willing to provide these services and both parties wish to enter into this Agreement.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. PROJECT DESCRIPTION

The Project is to provide on-call design and other related architectural services for a number of projects on an "as needed" basis determined by the County. The County, at its sole discretion, shall determine what projects are assigned to the Architect. During the term of the Agreement, Project Assignment (Attachment 1) that includes a detailed Scope of Work and Project Schedule will be issued to the Architect by the County. Upon receipt of a Project Assignment, the Architect will be required to submit Exhibit A, Compensation and Schedule form and Exhibit F, Consultant List, if acceptable to the County, the Architect will receive written Authorization to Proceed (Attachment 2).

2. SCOPE OF WORK

- A. The Scope of Work as determined by the County will be included at time of issuance of each written project assignment to the Architect.
- B. Architectural services may include, but not limited to, the following:

- 1) *Evaluation & Planning Services*

- Programming
- Functional relationships/flow diagrams
- Existing facilities surveys
- Conditions assessments
- Marketing studies
- Economic feasibility studies
- Project financing
- Site analysis, selection and development planning
- On-site and off-site utility studies
- Environmental studies and reports
- Zoning review

2) *Design Services*

- Code review
- Civil design
- Landscape design
- Architectural design
- Interior design
- Structural design
- Mechanical design
- Electrical design
- Solar design
- Leeds and sustainable design
- Materials research and specifications
- Cost Estimating
- Architectural renderings/models

3) *Bidding and Negotiation Services*

- Bidding documents
- Attendance pre-bid conference
- Addenda/responding to bidder inquiries
- Bidding/Negotiation
- Analysis of alternates and substitutions
- Bid evaluation

4) *Contract Administration Services*

- Submittal services
- Review of Pay Applications
- On-site inspection of work

- Testing and inspection administration
- Supplemental documentation
- Quotation requests/change orders
- Contract cost accounting
- Furniture & equipment installation administration
- Interpretations & decisions
- Project close-out

5) *Facility Administration Services*

- Maintenance and operational programming
- Startup assistance
- Record drawing
- Warranty review
- Post contract evaluation

3. BASIS FOR COMPENSATION

The fee for basic services generally is based on a percentage of the Maximum Allowable Construction Cost (MACC) as may be adjusted by building type, design complexity, and Scope of Work. The MACC for the purpose of calculating the fee for basic services is not adjusted at the time of construction contract award. If, at any time, the MACC and/or the percentage are changed by amendment to the Agreement, the basic services fee shall be adjusted as appropriate. No fee adjustment shall be made for phases already completed.

4. COMPENSATION, INVOICING, AND SET-OFF

- A. In consideration of its obligations under this Agreement the Architect shall be compensated as follows:
- B. County shall pay to the Architect in full payment for services satisfactorily performed and all costs and expenses shall be in accordance with Exhibit A Compensation and Schedule.
- 1) The total amount payable to the Architect under this Agreement shall not exceed Five Hundred Thousand Dollars (\$500,000.00) exclusive of gross receipts tax. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Architect;
 - 2) This amount is a maximum and not a guarantee that the work assigned to be performed by Architect under this Agreement shall equal the amount stated herein. The parties do not intend for the Architect to continue to provide services without compensation when the total compensation

amount is reached. The County will notify the Architect when the services provided under this Agreement reach the total compensation amount. In no event will the Architect be paid for services provided in excess of the total compensation amount without this Agreement being amended.

- C. The Architect shall submit a written request for payment, on the form attached hereto as Exhibit B Architect Pay Request Form, when payment is due under this Agreement within each phase of services. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. The Architect acknowledges and agrees that the County may not make any payment hereunder unless and until the County has issued a written certification accepting the contractual items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.
- D. In the event the Architect breaches this Agreement, the County may, without penalty, withhold any payments due the Architect for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.
- E. Payment under the Agreement shall not foreclose the right of the County to recover excessive or illegal payment.
- F. The Architect shall submit, with its billings at the completion of the Project, certification that payment has been made to all consultants, suppliers, and others for materials and services required by this Agreement.
- G. No deductions or withholdings shall be made from the Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to Contractors, or on account of the cost of changes in the Work other than those for which the Architect may be legally liable in accordance with this Agreement.
- H. In the event the County receives Notice from any person, Consultant, Sub consultant, or other third party, that the Architect has failed to pay such person(s) for Work performed in accordance with Agreements, the Architect shall, at the request of the County, and in no more than ten (10) calendar days, provide all documentation the County believes necessary to determine whether such payment is due, or reasons for non-payment of disputed amounts. In the event the County

determines the claim to be valid and payment is due, or in the absence of aforementioned documentation, the County may authorize direct payment of any unpaid bills, withholding from the Architect's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such claims until satisfactory documentation is furnished that all liabilities have been fully discharged or reasons for non-payment of disputed amounts are provided by the Architect. In no event shall these provisions be construed to impose any obligation upon the County to the Architect.

- I. In the event of termination or suspension of the Project due to the fault of parties other than the Architect, the Architect shall be compensated for services performed to the date of termination.

5. BASIC SERVICES

The Architect shall perform professional services including basic architectural, landscaping architecture, interior design, structural, mechanical, civil and electrical engineering services. The Architect shall represent that all tasks will be performed in accordance with generally acceptable professional standards and further represent that the advice and consultation provided shall be within the Architect's authority and capacity. The Architect shall comply with the regulations, laws, ordinances and requirements of all levels of government applicable to any assigned project.

The services to be provided during each phase listed herein includes all consulting services required by the Architect to provide the professional architectural and engineering services incidental to the design and construction of the Project. The intent of this Agreement is to design completely functional and operational facilities within the identified scope of work and cost limitation.

The Architect's Basic Services shall consist of the following:

- A. Programming Phase. This phase involves the collection of facts, identifying concepts, analyzing the site and determining the proper operational needs of the agency. Based on the data provided by the County and pursuant to consultation with the County, the Architect shall prepare a document that defines the scope of the project. The programming document shall reflect the limits of the maximum allowable construction costs (MACC) and provide an estimated duration for construction.
 - 1) The Architect shall include in the program document the results of site investigation and the field verification of any information provided by the County.
 - 2) The County shall work with the Architect to ensure that the information required by the County is made available to the Architect. This

information and other requests concerning organization of functions shall be provided in the form of a written memorandum.

- 3) The County shall schedule a meeting between the Architect and the County's Department representative to define the relationship among all parties. The Architect shall advise the County, in writing, of any information required which has not been provided by the County and/or any conflicts between the established program requirements, and the MACC.
- 4) The Architect shall obtain the approval of the County, in writing, of the Program Phase before commencing work on the Schematic Design Phase. The Architect shall provide written confirmation, to be transmitted with the Program Document to the County, that the Architect has visited the site, familiarized itself with the local conditions under which the work is to be performed, correlated its observations with current code requirements and life safety needs, and has a clear understanding of existing conditions for the Project.

B. Schematic Phase. Upon completion of the Programming Phase the Architect shall produce studies consisting of drawings and other documents necessary to illustrate the general planning concepts, probable architectural, engineering, and building systems, materials and preliminary alternatives, a breakdown of the budget on current area, volume, or other unit costs, and the approximate dimensions of the programmed areas. The number of iterations of such studies produced shall be sufficient to accomplish and demonstrate a design concept for the Project that is satisfactory to the County. The Architect shall incorporate in the Schematic Design Drawings and documents the provisions of Green Building Standards and current State-adopted Building Code and current ASHRAE 90.1 are incorporated herein by reference. Where applicable, the provisions of these documents shall apply. The Architect shall brief, and obtain the written approval from the County for the Schematic Design Drawing and documents. This review and approval shall include the life cycle costs. The Architect shall obtain the written approval of the County of one of the proposed design schemes, as modified by any comment during review, before commencing work on the Design Development Phase.

- 1) The Architect shall provide a feasibility report as part of this phase on the energy sources other than fossil fuels for the heating and air conditioning of the proposed building, if applicable.
- 2) The Architect shall request site survey data from the County.
- 3) The responsibility for bringing the Project within the MACC and

compliance with construction directives remains with the Architect. Should the Architect at any time conclude that the budget and the scope of the work to be accomplished are incompatible, the County shall be notified immediately in writing, with proposed recommendations to reconcile the incompatibility.

- C. Design Development Phase. Upon completion of the Schematic Phase, the Architect shall prepare the Design Development Documents consisting of drawings, outline specifications, and other documents to fix and describe the size and character of the entire project as to civil, structural, mechanical, plumbing, and electrical systems materials and such other design essentials as may be appropriate. Additionally, these documents shall identify design features, program modifications, the probable Project Schedule, equipment installed in the Project or furnishings required, and a statement that identifies the need for any additional data, surveys, or tests. The Architect shall provide sufficient, alternative design solutions on major design features to allow the County to ascertain that the recommended design achieves practical programmatic and economic solutions, within the limitations of the authorized program, schedule, and budget; include staffing and occupancy considerations provided by County. The Architect shall acquire the approval, in writing, of the County of all documents associated with the Design Development Phase before commencing work on the Construction Documents Phase.

- 1) The Architect shall submit to the County for review and written approval a refined statement of Probable Construction Cost at the completion of the Design Development Phase. Should the Architect conclude, at any time, that the budget and the scope of work to be accomplished are incompatible; the County shall be notified immediately in writing, with proposed recommendations to reconcile the incompatibility.
- 2) Should the County initiate or require a material change from the approved Design Development Documents and there is no fault or responsibility of the Architect related to the County's initiation or requirement of the change, the Architect's efforts implementing said change(s) shall be compensated as an Additional Service and the schedule of delivery of the Architect's services shall be equitably adjusted if/as appropriate.

- D. Construction Document Phase. Upon the completion of the Design Development Phase, the Architect shall prepare and complete the Construction Documents based upon information contained in the Design Development drawings and other documents approved by the County. These Construction Documents shall provide the detailed requirements for the construction of the entire project.

- 1) The Construction Documents shall include written and graphic elements

indicating contracting requirements, specifications and contract drawings. If Architect is to provide professional design services, layouts of equipment or certifications related to systems, materials or equipment that are not included in these Construction Documents, the Architect shall clearly define and identify such services and specify all performance and design criteria that such services must satisfy within the Construction Documents. The County or the Architect shall not be responsible for the adequacy of the performance or design criteria specified by the Architect and required by the Construction Documents.

- 2) In preparing the Construction Document, the Architect shall, as directed by the County, prepare the necessary bidding information, bidding forms, and the project manual, which shall include the Conditions of the Contract for Construction (general, supplementary, and other conditions of the contract), and the Standard Form of Agreement between County and Contractor. The Architect shall incorporate in the Invitation for Bid (IFB) documents the provisions for Index to Bidding as provided as Exhibit H.
- 3) The Invitation for Bid shall be prepared by the Architect as directed by the County, and shall include the bid date, location and time, which shall be prepared by the County and Architect and submitted to the County's Purchasing Division during the Bidding Phase. The Architect shall assist the County in filing the required documents for the approval of any governmental or other authorities having jurisdiction over the Project assigned.
- 4) Construction Drawings: In addition to the electronic CAD files, PDF files and related electronic documents, the Architect shall provide three (3) full drawing sets to the County. Hand-drawn drawings, when approved in advance by the County, shall be prepared non-glossy polyester film 3-ml thickness minimum. Standard sheet sizes may be architectural sizes 24" x 36" or 30" x 42".
- 5) Electronic Data: The County requires that final Construction Documents and Specifications are prepared using computer technology in the formats prescribed in paragraph 12 "software requirements".
- 6) Only materials and systems available at the time of this Agreement or reasonably believed to become available prior to the expiration of the Construction Contract shall be specified in the Contract Documents. The Bidding or RFP Documents shall include a list of those items (or categories of items) for which shop drawings or submittals are required.

- 7) The Architect shall furnish Bidding Documents to the County bearing the approval of the following:
- a. Construction Industries Division, Regulation and Licensing Department,
 - b. Santa Fe County Technical Review Division,
 - c. If applicable: Occupational Health and Safety Bureau; Environmental Protection Division; Environment Department,
 - d. If applicable: The Health Facility Licensing and Certification Bureau; Health Improvement Division; Department of Health,
 - e. If applicable: N.M. Environment Department; N.M. Energy, Minerals and N.M. Natural Resources Department and N.M. Department of Information Technology and Infrastructure Voice Radio (IVR).
- 8) The Architect shall provide a signature-approval block on the front sheet of the drawings and specifications for the following and obtain signatures of the following:
- a. Santa Fe County,
 - b. Utility companies (as appropriate),
 - c. Design Professional Certification: Project meets as a minimum – current ASHRAE 90.1 requirements,
 - d. Department of Information Technology, IVR (as appropriate).
- 10) Project Wage Determination: The Architect shall, as directed by the County, request from the State of New Mexico Labor and Industrial Division, Workforce Solutions a minimum wage rate determination for the Project pursuant to Section 13-1-11, NMSA 1978. The Architect shall provide the Division a description of the Project, as estimate of construction cost, an approximate bid or proposal opening date, and any other pertinent information required by the Labor and Industrial Division. The Architect shall include a wage rate determination in the Bidding or RFP Documents. Federally funded projects will required both state and federal wage rates.
- 11) Upon completion of the Construction Documents, the Architect shall brief the County on the Bidding Documents, specifically addressing previous County concerns and requirements. At this briefing, the Architect shall furnish the County a final and detailed statement of probable construction cost, including an updated Project schedule. The Architect shall pay any fees incurred in the preparation of the detailed cost estimate provided by the Architect.

- 12) The responsibility of bringing the Project within the Maximum Allowable Construction Cost (MACC) and compliance with construction directives remains with the Architect. Should the Architect at any time conclude that the budget and the scope of work to be accomplished are incompatible; the County shall be notified immediately in writing, with proposed recommendations to reconcile same.
- 13) The Architect shall return all original documents and drawings provided by the County to the County upon the County's request, but in no case later than when the Construction Documents Phase has been completed. Payment for the Construction Documents Phase will not be made to the Architect until the County has received said documents and drawings.
- 14) The Architect shall acquire the approval, in writing, of the County of all documents, and any and all bid alternates, associated with the Construction Documents Phase before commencing work on the Bidding Phase.

E. Bidding and Negotiation Phase. The Architect, following the County's written approval of the Bidding Documents, shall assist the County in obtaining bids and in awarding and preparing contracts for construction, as directed by the County. The finalized Invitation for Bid for Construction shall be prepared by the County and forwarded to the Architect for bidding purposes and the County shall issue a purchase order authorizing the advertisement for the Project.

- 1) The Architect shall provide sets of Bidding Documents as required to the County, and sets as appropriate to all Bidders requesting documents for bidding purposes. Prime bidders shall be defined as General Contractors, who will be allowed no more than three sets; major subcontractors as listed in the form, or other suppliers.
- 2) The Architect shall, as directed by the County, provide an additional number of documents to be placed in plan rooms as well as in the Architect's office for review by prospective Bidders.
- 3) The Architect shall also make sets available to other prospective parties as requested. The Architect may charge the cost of reproduction to the party requesting the documents.
- 4) The Architect shall clarify and answer any questions about the Bidding Documents, as directed by the County, during the bidding process and shall issue Addenda as required to all Bidders, and the County.

- 5) All Addenda, including all revised drawings and sections, must be approved by the County prior to distribution. The Architect shall allow sufficient time for County to review and accept each addendum.
- 6) The Architect shall provide assistance to the County to identify the apparent successful bidder(s) and shall provide written recommendation to accept or reject the bids.
- 7) The Architect shall not discuss with bidders, news media, etc., any presumption of award until the award is decided by the County.

F. Construction Phase-Administration of the Construction Contract. The Construction Phase will commence with the award of the contract for construction and continue until the eleven month inspection and report is submitted by the contractor and approved by the County.

- 1) The Architect shall provide administration of the construction contract as required and defined in the Conditions of the Contract for Construction. The extent of the Architect's duties and responsibilities and the limitations of its authority thereunder shall not be modified without the County's written consent.
- 2) The Architect shall be the representative of the County during the Construction Phase and shall advise and consult with the County. Instructions to the Contractor shall be forwarded only through the Architect. The Architect shall have authority to act on behalf of the County only to the extent provided in the Contract Documents and any amendments thereto.
- 3) The Architect shall at all times have access to the Work, whether it is in preparation or progress.
- 4) The Architect shall submit to the County, for approval, a list of critical inspection points based upon the construction schedule furnished by the Contractor. The Architect shall make periodic visits to the site at such times as appropriate during the progress of the Work for the purposes of notifying the County on the progress and condition of the Work and adequately represent the County. Additionally, the Architect shall familiarize itself with the progress and quality of the Work and determine if the Work is proceeding substantially in accordance with the Contract Documents. On the basis of on-site observations, the Architect shall endeavor to guard the County against defects and deficiencies in the construction. Should the Architect determine that any portion of the

Work varies from the requirements of the Contract Documents, the Architect shall immediately notify the Contractor and the County of the nature of the work required to correct such non-compliance.

- 5) The Architect shall provide a minimum of weekly on-site observation during the construction phase in an attempt to guard the County against defects and deficiencies in the construction, in addition to critical inspections and other reviews and evaluations required by the progress of the Work. The results of all on-site observations shall be documented in field reports submitted to the County within seven (7) days of each such site visit.
- 6) The Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, for acts or omissions of the Contractor, subcontractors, or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.
- 7) The Architect shall determine, certify, and make recommendations to the County for payment for the amounts owing to the Contractor subject to the County's approval, based on observations at the site and evaluations of the Contractor's Applications for Payment. The Architect shall issue Certificates for Payment in such approved amounts as provided in the Contract Documents.
- 8) The issuance of a Certificate and recommendation for payment shall constitute representation by the Architect to the County, based on the Architect's observations at the site as provided in subparagraph 4) above and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that the quality of the Work is substantially in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications state in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the Contractor has used the money paid on account of the Contract Sum.
- 9) The Architect shall render interpretations of the documents necessary for

the proper execution or progress of the Work with reasonable promptness on written request of either the County or the Contractor, and shall render written decisions within a reasonable time on all claims, disputes, and other matters in questions between the County and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents.

- 10) Interpretations and decisions of the Architect shall be consistent with the requirements and intent of the Contract Documents and shall be in written or graphic form.
- 11) The Architect's decisions in matters relating to artistic effect shall be final if consistent with the requirements of the Contract Documents.
- 12) The Architect shall have authority to reject work that does not conform to the Contract Documents. Where rejected Work is not promptly corrected, the Architect shall recommend to the County that the Work shall stop. Whenever, in the Architect's professional opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work be then fabricated, installed, or completed.
- 13) The Architect shall review the Contractor's submittals, such as shop drawings, product data, and samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents; and, for each submittal, the Architect shall designate in writing that the Architect:
 - a. Takes no exception to this submittal
 - b. Rejects the submittal
 - c. Requires corrections as noted by the Architect
 - d. Requires revisions and resubmitted to the Architect
 - e. Requires the Contractor to submit the specified item
 - f. Approves as corrected

Such action shall be taken with reasonable promptness so as to cause no delay. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

- 14) Necessary professional services or construction required to repair or overcome problems caused by the Architect's errors, omissions, inadequacies, or changes not authorized by the County in the preparation of the documents or design shall be the responsibility of the Architect or

its consultants, without additional cost to the County.

- 15) All Change Orders, defined in the Conditions of the Contract for Construction, shall be prepared by the Architect. Such Change Orders shall not become effective or binding on the County or Contractor until signed by the County and others whose signatures are required therein. Attached in Exhibit G and incorporated into this Agreement by reference is a copy of the Change Order form. Using this form, the Change Order shall be initiated by the party requesting a change. Approval in writing by the County of a completed Change Order modifies this Contract for construction to the extent indicated. No Work that could reasonably be expected to alter the contract price or materially alter the Project shall be undertaken until the County has approved a completed Change Order that outlines the desired change. Any deviation from the above described Change Order process shall be considered a material breach of this Contract. The County reserves the right to seek remedy from the Architect for Change Orders made necessary due to the Architect's errors and omissions.
- 16) Upon prior notice to the County, the Architect shall make observations to determine the Dates of Substantial Completion and Final Completion. The Architect shall obtain and forward to the County for the County's review of written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Architect shall then issue a final Certificate for Payment.
- 17) The extent of the duties, responsibilities, and limitations of authority of the Architect as the County's representative during construction shall not be modified or extended without written consent of the County and the Architect.
- 18) Should the Architect, its staff, or its consultants direct the Contractor, or its Subcontractors to undertake work for which additional compensation could reasonably be expected, and if such work is not:
 - a. An emergency endangering life and property
 - b. Required by the Contract Documents
 - c. Required by approved Change Orders (signed by the Architect, the County and the Contractor)

Payment for such work, if accomplished without written authorization, shall not be borne by the County and shall constitute adequate grounds for dismissal or other action against the Architect.

- 19) As part of the Architect's Basic Services, the Architect shall modify the original reproducible drawings and the Project Manual, delineating recorded built conditions of the Project or record documents compiled from the records of the Contractor and the Architect, showing all changes in the Work. This set of Documents shall also include record documents showing actual location of all Work.
 - 20) Record Drawings: Record Drawings and documents are to be delivered to the County within thirty (30) days following Substantial Completion of the project by the Architect. Record Drawings shall be produced by the Architect and shall consist of a set of reproducible drawing sheets, based on a Mylar format, specifications on 8 ½ x 11 inch paper and shall provide all the As-Built conditions documented by the Contractor for the project. The Architect shall also provide to the County a set of PDF drawing files and CAD drawing files formatted on CD-ROM with file format to follow the standard utilized by the County at the time of this Agreement. The CD-ROM files shall duplicate the conditions documented on the Mylar Record Drawings. Further, the Architect shall deliver three (3) sets of the operations and maintenance manuals, hard copy and electronic, training videos, written warranties and related documents.
- G. Project Closeout. Upon receipt of written notice that construction is ready for final inspection and work is found acceptable for final payment. The Architect shall provide "as built" drawings in hard copy and electronic form following completion of the project.
- H. 11 Month Inspection Phase. The Architect shall submit to the County its recommendations regarding the completion of all construction contracts. The Architect shall obtain from the Contractor all releases, waivers of lien, guarantees, warranties, maintenance data, bonds, and acknowledge receipt of the Contractor's record drawings. The Architect shall obtain and deliver to the County a signed receipt for all materials turned over.
- 1) The Architect shall attend one design process analysis meeting to assess implementation of sustainable design and construction requirements into the project and review any lessons learned from the overall effort.
 - 2) The Architect shall, eleven months after substantial completion of the project, schedule a meeting with the Architect, Architect's consultants and the County to evaluate the building and its operations, inspect architectural systems, and endeavor to discover defects in materials, equipment, and workmanship. The Architect shall provide a written report of this activity to the County within seven (7) calendar days. The

County, through the Architect, shall notify affected Contractor of any corrective action noted in the report.

6. PROJECT REPRESENTATION BEYOND BASIC SERVICES

If the County and the Architect agree that more extensive representation for observation of the Site than that described in subparagraph E.F.5 shall be provided, the Architect shall, upon written authorization of the County, provide one or more Project Representatives to assist the Architect in carrying out such responsibilities at the site.

- A. Subject to County's approval, the Architect's Project Representative shall be selected, employed, and directed by the Architect. The Architect shall be compensated therefore as mutually agreed between the County and the Architect as set forth in an approved amendment to this Agreement, which shall, in addition, describe the duties, responsibilities, and limitations of authority of such Project Representative(s).
- B. Through the observations of such Project Representative(s), the Architect shall provide further protection for the County against defects and deficiencies in the Work to determine that the Work is carried out in conformance with the plans and specifications; but the furnishing of such project representation shall not diminish the rights, responsibilities, or obligations of the Architect as described in this Agreement.
- C. The County reserves the right to designate a County Representative in lieu of the Architect's Project Representative to provide additional site representation for the County beyond that provided by the Architect. If the County elects to provide a County Representative in lieu of a Project Representative, this subsection shall not diminish the rights, responsibilities, or obligations of the Architect established in this Agreement. The County Representative's duties and limits of authority shall be established so as not to conflict with those of the Architect. The Architect shall cooperate with the County Representative in the performance of its duties.
- D. The County reserves the right to employ an independent cost consultant to provide value and cost architectural or engineering services on the Project. If a cost consultant is retained, an amendment to this Agreement will be required identifying the duties and limits of authority of the cost consultant. The Architect shall cooperate with the cost consultant in the performance of the cost consultant's duties.

7. ADDITIONAL SERVICES

Additional Services of the Architect are services that are in addition to but not included in Basic

Services, provided that the Architect is not obligated to perform, furnish or incur such services as a part of the Architect's Basic Services. These services may be identified as part of the Architect's fee proposal and included with the lump sum fee as such. These services shall be provided when authorized in advance in writing by the County, and they shall be paid for by the County as outlined below. Attached as Exhibit D and incorporated into this Agreement by reference is a copy of the Architect's Additional Services Amendment Form. Additional Services may include, but are not limited, to the following:

- A. Providing financial feasibility or other special studies.
- B. Providing planning surveys, site evaluations, environmental impact studies, or comparative studies of prospective sites other than those services required under Basic Services to provide a complete and operable facility.
- C. Providing Services related to future facilities, systems, and equipment that are not intended to be constructed during the Construction Phase.
- D. Making revisions in drawings, specifications, or other documents when such revision are inconsistent with written approvals or instructions previously given and are due to causes beyond the control or not the responsibility of the Architect. This does not apply to revisions necessary for final approval of Programming, Schematic Design Studies, and Statement of Project Scope, and Design Development Documents, or to revisions necessary to bring the Project within the designated MACC. The Architect shall receive written authorization from the County before commencing work on any change or alteration to the Contract Documents.
- E. Preparing drawings, specifications, and supporting data and providing other services in connection with Change Orders, provided that the adjustment in the Basic Compensation resulting from the adjusted Construction Cost is not for work which should have been provided pursuant to Basic Services and provided that such Change Orders are required because of causes not related to the actions or responsibilities of the Architect.
- F. Conducting investigations, surveys, valuations, inventories, or detailed appraisals of existing facilities when such work is not covered by this Agreement.
- G. Providing consultation concerning replacement of any Work damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such Work.
- H. Providing tests, inspections, and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

- I. Providing all required work for design, selection, and preparation of contract documents, and bidding for the procurement of furniture, fixtures, and related equipment. Following installation of furniture, fixtures, and equipment, Architect shall inspect the installation and prepare a list for items requiring correction. Upon notification from the installer that all corrections have been made, Architect shall again inspect the site to confirm that corrections were properly done and authorize final payment of the furniture, fixtures and equipment.
- J. Payments for additional services of the Architect shall be a negotiated lump sum, excluding additional services of consultants.
- K. Payments for additional services of consultants, including but not limited to the additional structural, civil, landscape, interior design, mechanical, and electrical services, shall be computed by applying a multiple not to exceed of 1.10 times the amounts billed to the Architect for such services. The Architect shall provide to the County for approval, hourly rates for consultants and its employees detailed by professional levels prior to incurring any liability for Additional Services. GRT will be added as a separate item in the pay request.

8. MEETINGS

The Architect shall be attendance at, and record minutes of, all meetings required by this Agreement throughout the course of the project as set forth herein. The Architect shall initiate additional meetings germane to the Agreement when authorized, in writing, to the County. The Architect shall distribute copies of meeting minutes to participants and other interested parties as directed by the County within seven (7) calendar days. The Architect consultants shall attend each meeting as appropriate or as requested by the County.

9. MONTHLY PROGRESS REPORTS

- A. The Architect shall submit monthly progress reports of design/construction activities to the County. Failure to submit monthly reports may result in delay to the Architect's progress payments. The report shall include:
 - 1) Activities completed and items pending since last report,
 - 2) Projected progress,
 - 3) Comparison of schedule to actual progress, and
 - 4) Decisions or information required.

B. The Architect shall request from the County the following:

- 1) Information sufficient for the Architect to develop program criteria including the County's goals, objectives, and needs, and the organizational chart of individuals, furnishings, and equipment that shall occupy the Project.
- 2) To the extent practicable and reasonable, the Architect shall incorporate the County's requests into the documents for construction; however, the Architect is responsible solely to the County for the types of material incorporated into the construction, the size of the facilities constructed, and to design within the MACC.
- 3) A list (by manufacturer and model number) of special equipment (other than 110 volt, 60HZ, requiring less than 10 amps) that requires utility services, including, but not limited to, telecommunication equipment such as data transmission and computer lines that shall be designated by the County's Information Technology Division.

10. FURNISHINGS AND EQUIPMENT

The Architect shall provide dimensional, color finish, power, etc., information necessary to specify any moveable furnishings and equipment not included in the project. Dimensional furniture plans shall incorporate and coordinate the requirements for electrical, communications, and data based on use and equipment, as well as the location of HVAC control devices and access panels. The Architect shall be compensated with Additional Services for any design and specification related to movable furnishings, fixtures and equipment requested by the County beyond that described above, provided that the Architect is not obligated to perform, furnish or incur such services as part of Basic Services.

11. TELECOMMUNICATIONS EQUIPMENT

Telecommunications and/or radio equipment for County facilities generally falls under the jurisdiction of the County's Information Technology Division. The County will instruct the Architect when and/or where outlets, conduits, wiring, etc., are to be included in the Project. The Architect shall coordinate with utility companies and other agencies.

12. SOFTWARE REQUIREMENTS

- A. Drawing Formats. All CAD drawings shall be supplied in PDF format as well as in DWG format and be readable by the County-supported CAD desktop software (Autodesk AutoCAD). "Readable" means the ability to open a file without any errors (such as proxy, font substitution, etc.) and with objects, layers, and other file properties remaining intact.